

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. THOMAS AND ST. JOHN

REPORTER'S TRANSCRIPT

## JURY TRIAL

Wednesday, March 26, 2014

— — —

BEFORE: THE HONORABLE CURTIS V. GOMEZ  
District Judge

APPEARANCES: OFFICE OF THE UNITED STATES ATTORNEY  
BY: KELLY LAKE, AUSA  
NELSON JONES, AUSA

For the Government

ARTURO WATLINGTON, ESQ.

For Defendant Brown

JOSEPH MINGOLLA, ESQ.  
LAW OFFICES OF JOSEPH MINGOLLA

For Defendant Hill

— — —

COURT REPORTER: CHANDRA R. KEAN, RMR  
Official Court Reporter  
Virgin Islands District Court  
St. Thomas, Virgin Islands

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## EXHIBITS

<u>GOVERNMENT'S EXHIBIT NO.</u>	<u>MARKED</u>	<u>ADMITTED</u>
88a	7	---
88b	8	---
86c-1	---	33
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DEFENDANT'S EXHIBIT MARKED ADMITTED  
(None)

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## PROCEEDINGS

09:16:18 3 (Court called to order at 9:15 a.m.)

09:16:18 4 (Juries present)

09:16:19 5 THE COURT: Good morning, ladies and gentlemen.

09:16:20 6 I hope you had a pleasant evening.

09:16:22 7 We are still in the government's case-in-chief.

09:16:24 8 The government is still presenting testimony.

09:16:25 9 Good morning, Counsel.

09:16:26 10 Is the government ready to proceed?

09:16:30 11 MS. LAKE: Yes, Your Honor.

09:16:33 12 THE COURT: Call your next witness.

09:16:38 13 MS. LAKE: The government calls Louis Hill.

09:16:41 14 I'm sorry, the government calls Angelo Hill. I apologize.

09:16:44 15

09:18:46 16 THE CLERK: Please stand and raise your right hand to take the oath.

09:18:48 17

09:18:49 18 (Witness sworn.)

09:18:54 19 THE WITNESS: I do.

09:18:55 20 THEREUPON, ANGELO HILL, having been duly sworn,

09:18:56 21 was examined and testified as follows:

09:18:56 22 DIRECT EXAMINATION

09:18:56 23 BY MS. LAKE:

09:19:10 24 Q. Good morning.

09:19:11 25 A. Good morning.

09:19:11 1 Q. Please state your name for the record.

09:19:13 2 A. Angelo Hill.

09:19:15 3 Q. And can you please spell your full name?

09:19:17 4 A. A-n-g-e-l-o, H-i-l-l.

09:19:20 5 Q. Mr. Hill, how old are you?

09:19:24 6 A. 51.

09:19:25 7 Q. And where were you born?

09:19:26 8 A. St. Thomas.

09:19:27 9 Q. And where were you raised?

09:19:29 10 A. St. Thomas.

09:19:31 11 Q. And can you briefly describe your educational

09:19:37 12 background?

09:19:38 13 A. Attended Julius Sprauve School in St. John,

09:19:42 14 Charlotte Amalie High School, class of '81, Florida A&M

09:19:48 15 University, class of '85, and online master's program.

09:19:53 16 Q. Can you describe your work background?

09:19:57 17 A. Worked Customs part-time, as a part-time inspector,

09:20:02 18 and then joined the Police Department in 1987 until

09:20:08 19 August of last year.

09:20:11 20 Q. And where were you assigned while you worked for

09:20:14 21 the VIPD?

09:20:17 22 A. I was assigned to patrol, Intel Unit, Investigation

09:20:25 23 Unit, DEA Task Force, deputy chief, assistant

09:20:33 24 commissioner, acting commander.

09:20:35 25 Q. And what was your last assignment?

09:20:38 1 A. A sergeant in the Investigation Bureau.

09:20:41 2 Q. And where were you assigned?

09:20:43 3 A. St. John.

09:20:46 4 Q. And how long had you been assigned to St. John?

09:20:51 5 A. Approximately nine months to a year, I'm not sure.

09:20:56 6 Q. And while you were employed with VIPD, did you also

09:20:59 7 engage in other activities?

09:21:01 8 A. Yes.

09:21:02 9 Q. What were those activities?

09:21:05 10 A. Illegal activities with drugs.

09:21:10 11 Q. And was the -- when did you start engaging in drug

09:21:14 12 activity?

09:21:17 13 A. I'd probably say maybe in '93, '95, when I met

09:21:26 14 Tapia.

09:21:28 15 Q. And where did you meet Mr. Tapia?

09:21:31 16 A. When I was assigned to the Marine Unit.

09:21:34 17 Q. And describe the circumstances that you first got

09:21:39 18 into drugs?

09:21:41 19 A. When I was there I was supervisor and I would

09:21:44 20 always notice him doing things different by himself.

09:21:49 21 And I confronted him one time. And he didn't come out

09:21:53 22 and admit to it, but he did lean to that direction. And

09:21:58 23 then he gave me some money and said, you know, I do

09:22:01 24 certain things, and I could assist you with money.

09:22:03 25 Q. And did you take the money?

09:22:05 1 A. Yes.

09:22:05 2 Q. And how much was it, if you can recall?

09:22:08 3 A. Between \$4,000 and \$5,000.

09:22:11 4 Q. And so what was your role at that time as it

09:22:15 5 relates to drugs?

09:22:18 6 A. I didn't have a role per se. I just knew about it.

09:22:24 7 Q. And were you charged in this current case?

09:22:26 8 A. Yes.

09:22:27 9 Q. And did you plead guilty?

09:22:28 10 A. Yes, I did.

09:22:29 11 Q. And what did you plead guilty to?

09:22:31 12 A. Conspiracy.

09:22:32 13 Q. Conspiracy to do what?

09:22:34 14 A. I think it's possession with intent to distribute.

09:22:38 15 Q. And why did you plead guilty?

09:22:40 16 A. Because I was guilty.

09:22:40 17 (Government's Exhibit 88a marked for

09:22:40 18 identification.)

09:22:43 19 BY MS. LAKE:

09:22:43 20 Q. And now showing you on the screen in front of you

09:22:46 21 Government's Exhibit 88a. Do you see that in front of

09:22:54 22 you?

09:22:54 23 A. Yes.

09:22:54 24 Q. And showing you the last page.

09:23:00 25 Do you see that in front of you?

09:23:02 1 A. Yes.

09:23:02 2 Q. What is Government's Exhibit 88a?

09:23:06 3 A. It's a plea agreement.

09:23:07 4 Q. And did you sign this plea agreement?

09:23:09 5 A. Yes, I did.

09:23:09 6 (Government's Exhibit 88b marked for

09:23:09 7 identification.)

09:23:10 8 BY MS. LAKE:

09:23:10 9 Q. And now showing you Government's Exhibit 88b.

09:23:17 10 Do you see that in front of you?

09:23:19 11 A. Yes.

09:23:19 12 Q. And showing you the last page. Do you see that in

09:23:31 13 front of you?

09:23:32 14 A. Yes.

09:23:32 15 Q. And what is Government's Exhibit 88b?

09:23:35 16 A. Supplemental plea agreement.

09:23:37 17 Q. And what is a supplemental -- what is the

09:23:40 18 supplemental plea agreement?

09:23:43 19 A. My understanding would be a recommendation that the

09:23:47 20 Court -- well, the prosecution would give to the Court.

09:23:50 21 Q. And did you sign this supplemental plea agreement?

09:23:53 22 A. Yes.

09:23:53 23 Q. And what, what do you need to do?

09:23:58 24 A. I need to be honest. I need to tell the truth.

09:24:02 25 And hope that I get a reduction.

09:24:05 1 Q. And why did you agree to the supplemental plea  
09:24:10 2 agreement? Why did you agree to cooperate?  
09:24:14 3 A. After a while you have a conscience and you got to  
09:24:17 4 do what's right.  
09:24:20 5 Q. Now, in this case that you've pled to, what, if  
09:24:25 6 anything, did you do in this case? What were the  
09:24:28 7 circumstances?  
09:24:30 8 A. This case, I was aware that my family members  
09:24:36 9 involved in drug trafficking, and I knew that -- well,  
09:24:41 10 Tapia had made contact with me that he was trying to get  
09:24:44 11 some drugs and make -- I should make contact with my  
09:24:48 12 family member, which I did.  
09:24:49 13 Q. And who was the family member that you made contact  
09:24:51 14 with?  
09:24:52 15 A. My cousin, Walter.  
09:24:54 16 Q. And do you see Walter in the courtroom today?  
09:24:59 17 A. Yes.  
09:25:00 18 Q. Could you please point to where he is located and  
09:25:03 19 describe something that he is wearing?  
09:25:07 20 A. He is sitting right there with, it's a tan-colored  
09:25:12 21 jacket.  
09:25:12 22 Q. And where is he seated?  
09:25:14 23 A. Between -- next to the gentleman in the black  
09:25:18 24 jacket and the other gentleman.  
09:25:20 25 Q. And what's the other gentleman wearing?

09:25:24 1 A. Seems like a tan, from where I'm at, jacket also.

09:25:28 2 Q. And is there anything unique about how your cousin

09:25:31 3 looks?

09:25:32 4 A. Anything unique?

09:25:33 5 Q. Yeah, just to describe what he looks like right

09:25:36 6 now?

09:25:37 7 A. He's wearing glasses.

09:25:41 8 MR. MINGOLLA: I object, Your Honor, on

09:25:43 9 relevance grounds.

09:25:44 10 THE COURT: Overruled.

09:25:45 11 BY MS. LAKE:

09:25:45 12 Q. What does he look like right now?

09:25:47 13 A. He's wearing glasses, nothing different.

09:25:51 14 THE COURT: All right. The record will reflect

09:25:53 15 that the witness has identified the Defendant Walter

09:25:59 16 Hill.

09:25:59 17 BY MS. LAKE:

09:25:59 18 Q. And how did Tapia, Mr. Tapia contact you?

09:26:02 19 A. By cell phone.

09:26:03 20 Q. And when he contacted you, what, if anything, did

09:26:06 21 he say to you?

09:26:08 22 A. I don't remember verbatim what he said, but he said

09:26:13 23 something to the expression that he was needing to get

09:26:16 24 seven girls, and if I could make contact with the person

09:26:22 25 that he needed to talk to.

09:26:24 1 MR. MINGOLLA: Your Honor, objection. Lack of

09:26:26 2 foundation here.

09:26:27 3 THE COURT: Overruled.

09:26:27 4 BY MS. LAKE:

09:26:27 5 Q. What does "seven girls" mean?

09:26:29 6 A. I interpret that as seven kilos.

09:26:31 7 Q. And what, if anything, did you do next?

09:26:35 8 A. I made a phone call to my cousin.

09:26:41 9 Q. And when you say your cousin, who do you mean?

09:26:44 10 A. To Walter.

09:26:45 11 Q. And what, if anything, happened next?

09:26:47 12 A. I told him what Tapia requested and he agreed to

09:26:49 13 meet with him.

09:26:49 14 Q. And what, if anything, happened next?

09:26:54 15 A. If I recall correctly, I called Tapia again to make

09:26:58 16 sure he was still coming to St. John, and, I don't

09:27:03 17 remember what boat he said he was coming on. It was

09:27:06 18 some -- a mix-up between the boat and the barge. But

09:27:09 19 actually -- he came up on the barge -- on the ferry, I'm

09:27:12 20 sorry, either 6:00 or 7:00. I think it was the 7:00

09:27:16 21 ferry.

09:27:16 22 And he called me again and asked me to pick him up.

09:27:20 23 I told him I would. And I came down the street. When I

09:27:23 24 came down the street, he wasn't there. So I circled the

09:27:26 25 block and he called again, said he was on the bench.

09:27:30 1 And I told him to walk up the street towards the bank.

09:27:33 2 Q. What, if anything, happened next?

09:27:37 3 A. He came up and got into the car.

09:27:38 4 Q. In whose car?

09:27:39 5 A. In the car that I was operating.

09:27:41 6 Q. What happened next?

09:27:42 7 A. I drove him down to a prearranged location that I

09:27:45 8 had spoke to my cousin about by the inspection lane in

09:27:50 9 Cruz Bay. And when I got there, a marked police unit

09:27:55 10 had pulled me over, requesting some keys for another

09:27:59 11 vehicle that I had access to.

09:28:01 12 Q. Let me stop you here. What kind of vehicle were

09:28:04 13 you in?

09:28:04 14 A. I was in an unmarked police vehicle.

09:28:07 15 Q. And were you on duty?

09:28:10 16 A. No, I had already punched out.

09:28:12 17 Q. And why would -- why did -- or why would a police

09:28:16 18 vehicle contact you?

09:28:16 19 A. Because I was the acting supervisor at that time.

09:28:19 20 The supervisor was out sick.

09:28:21 21 Q. And when you say "keys," what did you mean by this

09:28:24 22 officer asked you for keys?

09:28:26 23 A. No, keys for a vehicle.

09:28:27 24 Q. Okay. And so when you said -- so what happened

09:28:33 25 next?

09:28:33 1 A. I told him that I would, you know, come and get the  
09:28:36 2 keys in a few minutes. And at that time I observed a  
09:28:42 3 vehicle I know that my cousin would operate, drive by.  
09:28:45 4 Q. Let me stop you here. When you say "my cousin,"  
09:28:49 5 who are you referring to?  
09:28:49 6 A. Walter.  
09:28:50 7 Q. The Defendant Walter Hill?  
09:28:51 8 A. Yes.  
09:28:52 9 Q. Okay. And what happened next?  
09:28:53 10 A. I saw the vehicle drive by, passed where I was  
09:28:58 11 supposed to drop off Tapia, and went further down the  
09:29:03 12 street. And when I finish speaking with the officers I  
09:29:06 13 went towards that direction.  
09:29:07 14 I saw the vehicle parked on the left, so I pulled  
09:29:12 15 up towards the vehicle. And Tapia got out the vehicle  
09:29:16 16 and -- got out the vehicle I was driving and got into  
09:29:19 17 the other vehicle.  
09:29:19 18 Q. And who was in the other vehicle?  
09:29:21 19 A. I couldn't tell. It was dark and the car was  
09:29:24 20 tinted. My assumption it was Walter.  
09:29:27 21 Q. And why did --  
09:29:30 22 MR. MINGOLLA: Objection. Calls for  
09:29:30 23 speculation.  
09:29:31 24 THE COURT: Sustained.  
09:29:31 25

09:29:31 1 BY MS. LAKE:

09:29:32 2 Q. Is the car that you observed familiar to you?

09:29:34 3 A. Yes.

09:29:34 4 Q. And how is it familiar to you?

09:29:36 5 A. It's the car that Walter operates.

09:29:38 6 Q. And did you have an agreement with Walter regarding

09:29:41 7 transporting Roberto Tapia?

09:29:43 8 THE COURT: Stop leading your witness.

09:29:45 9 BY MS. LAKE:

09:29:46 10 Q. What, if anything, was your agreement -- did you

09:29:47 11 have an agreement with Walter Hill?

09:29:49 12 A. Yes.

09:29:51 13 Q. What --

09:29:52 14 THE COURT: Leading.

09:29:53 15 MR. MINGOLLA: Yes, it's leading.

09:29:53 16 BY MS. LAKE:

09:29:54 17 Q. What, if anything, was your agreement?

09:29:57 18 THE COURT: Stop assuming facts not in

09:29:59 19 evidence.

09:29:59 20 BY MS. LAKE:

09:29:59 21 Q. What, if anything -- why did you bring Roberto

09:30:02 22 Tapia to that area?

09:30:03 23 A. To meet with Walter.

09:30:05 24 Q. And was that an agreement that you had?

09:30:06 25 A. Yes.

09:30:07 1 Q. With who?

09:30:08 2 A. With Walter.

09:30:09 3 Q. So what, if anything, happened next?

09:30:11 4 A. He exited the vehicle I was operating and he got

09:30:15 5 into the other vehicle.

09:30:16 6 Q. And who is he?

09:30:17 7 A. Tapia.

09:30:18 8 Q. And what, if anything, happened next?

09:30:21 9 A. I drove away.

09:30:23 10 Q. So what did you do next?

09:30:24 11 A. I went back into town, drove around for a while.

09:30:28 12 And then when I was coming back towards the inspection

09:30:31 13 lane area I saw a lady that we usually stop, a Hispanic

09:30:37 14 lady that never have a driver's license from the last

09:30:40 15 time I met her. And I pulled her over and started

09:30:43 16 communicating with her.

09:30:45 17 Q. What, if anything, did you do next?

09:30:47 18 A. At that time my passenger side door opened and

09:30:52 19 Tapia came in and said: Take me back to the ferry.

09:30:56 20 Q. And what did you do?

09:30:57 21 A. I dropped him back to the ferry.

09:31:01 22 Q. Now showing you what's been admitted into evidence,

09:31:05 23 Government's Exhibit 68a. I would like to play

09:31:13 24 Government's Exhibit 68a.

09:31:46 25 (Exhibit published.)

09:32:17 1 Q. Mr. Hill, who was speaking?

09:32:21 2 A. Roberto Tapia and myself.

09:32:23 3 Q. And what were you two discussing?

09:32:25 4 A. About coming to St. John to pick up seven kilos.

09:32:28 5 Q. And now playing you what's been marked and admitted

09:32:31 6 as Government's Exhibit 72a only.

09:32:38 7 (Exhibit published.)

09:34:00 8 Q. Mr. Hill, who was speaking?

09:34:02 9 A. Myself and Tapia again.

09:34:03 10 Q. And what are you two discussing?

09:34:05 11 A. What time ferry he was coming, and that he wanted a

09:34:09 12 lower price to purchase the kilos.

09:34:16 13 Q. And kilos of what?

09:34:17 14 A. Cocaine.

09:34:18 15 Q. And what price did Mr. Tapia want?

09:34:20 16 A. I think he said 14-5.

09:34:25 17 Q. And what, if anything, did you say in response to

09:34:27 18 that?

09:34:27 19 A. I don't think my cousin would do that.

09:34:29 20 Q. And why did you say that?

09:34:31 21 A. Because I know he wouldn't. He would probably want

09:34:35 22 15 and not 14-5.

09:34:37 23 Q. And what else, if anything, did you talk about?

09:34:46 24 A. I don't recall anything else.

09:34:47 25 Q. And when you say "my cousin," who are you referring

09:34:50 1 to?

09:34:51 2 A. Walter.

09:34:51 3 Q. And now, after you took Mr. Tapia back to the

09:35:00 4 ferry, what else, if anything, did you do? What

09:35:04 5 happened next?

09:35:05 6 A. I got a phone call, I -- maybe an hour or so later

09:35:12 7 from Ed, Ed Monsanto, telling me that he heard that

09:35:16 8 Tapia had been arrested at Red Hook.

09:35:19 9 Q. And what did you do next?

09:35:21 10 A. I called Walter and told him.

09:35:24 11 Q. And what, if anything, happened after that?

09:35:27 12 A. Then we met and I explained to him what Ed had told

09:35:32 13 me. And he gave me \$3,500.

09:35:36 14 Q. Who gave you \$3,500?

09:35:38 15 A. Walter.

09:35:39 16 Q. And why did he give that to you?

09:35:41 17 A. As for assisting in the transaction.

09:35:45 18 Q. And what, if anything, did you two discuss?

09:35:49 19 A. We tried to figure out what would be next, whether

09:35:55 20 he -- what would happen, if he would talk, if he

09:35:58 21 would -- we don't know what actually happened.

09:36:02 22 Q. So after -- did you take the money?

09:36:04 23 A. Yes.

09:36:05 24 Q. And did anything else happen at that point in time?

09:36:08 25 A. Yes. He had some more drugs -- some more cocaine,

09:36:13 1 and we agreed to hide it.

09:36:18 2 Q. And where did you agree to hide it?

09:36:21 3 A. We were trying to figure out where. We weren't

09:36:24 4 sure. So I called a girlfriend and got her keys, and I

09:36:27 5 hid them in, unknown to her, in her pump room.

09:36:32 6 Q. I'm sorry, say it again, where?

09:36:36 7 A. It's a small room, separate from a house that she

09:36:40 8 doesn't live in. There's a pump room with pumps and

09:36:44 9 paint and stuff, and I hid it in there.

09:36:47 10 Q. And who was the owner of -- what did you call them,

09:36:52 11 the kilos? Who owned those drugs?

09:36:54 12 A. Walter.

09:36:55 13 Q. And approximately, do you know how much they were?

09:36:59 14 How many there were?

09:36:59 15 A. No.

09:37:02 16 Q. And what, if anything, happened next?

09:37:06 17 A. That was it, basically.

09:37:13 18 Q. And why did you and Walter agree to hide the drugs?

09:37:16 19 A. Well, we didn't know what, what Tapia was going to

09:37:20 20 do, what would happen next. We didn't know.

09:37:25 21 MR. MINGOLLA: Your Honor, I'm going to object

09:37:28 22 on speculation here.

09:37:29 23 THE COURT: Overruled.

09:37:35 24 BY MS. LAKE:

09:37:35 25 Q. And when Mr. Tapia contacted you for the seven

09:37:38 1 girls, for the seven kilos of cocaine, why did you  
09:37:44 2 contact Walter Hill?

09:37:48 3 A. I knew that he had cocaine.

09:37:51 4 Q. How did you know that he had cocaine?

09:37:56 5 A. We were close, we was, would always look out for me

09:38:00 6 and we were close, and I knew that he had it. I knew

09:38:03 7 he -- from things that he had shared with me being

09:38:10 8 close, you know, what he was involved in.

09:38:13 9 Q. Had you ever been involved with drugs with  
09:38:17 10 Mr. Walter Hill prior to this event?

09:38:20 11 A. Yes.

09:38:21 12 MR. MINGOLLA: Objection. Leading.

09:38:23 13 THE COURT: Sustained.

09:38:26 14 BY MS. LAKE:

09:38:26 15 Q. What, if anything, happened between you and Walter  
09:38:30 16 Hill prior to this event regarding drugs?

09:38:35 17 A. He had shared with me that he transported kilos --

09:38:41 18 MR. MINGOLLA: Objection, leading.

09:38:42 19 THE COURT: Rephrase.

09:38:46 20 BY MS. LAKE:

09:38:46 21 Q. Has Walter Hill ever told you anything about drugs?

09:38:51 22 MR. MINGOLLA: Objection. Leading.

09:38:58 23 THE COURT: Rephrase.

09:39:01 24 BY MS. LAKE:

09:39:01 25 Q. Regarding drugs, what, if anything, has Walter Hill

09:39:04 1 told you --

09:39:05 2 THE COURT: Come to sidebar.

09:39:20 3 (End of sidebar, open court as follows:)

09:39:31 4 THE COURT: Okay. I'm sustaining the objection  
09:39:32 5 but you're asking leading questions where you're  
09:39:35 6 suggesting or you're assuming facts not in evidence.  
09:39:38 7 You're presuming that there's a discussion about drugs  
09:39:41 8 or you're putting it into the head of this witness.

09:39:43 9 I think you need to find a way to ask your  
09:39:46 10 question. That's why it's eliciting an objection. You  
09:39:49 11 keep saying, "what did they talk about drugs?" You're  
09:39:52 12 assuming there was a discussion about drugs, or you're  
09:39:54 13 suggesting there was a discussion about drugs. In any  
09:39:56 14 event, it's objectionable. So you need to rephrase your  
09:39:58 15 question.

09:39:58 16 MS. LAKE: Your Honor, I said what, if any,  
09:40:01 17 conversations have you had regarding drugs. I'm not  
09:40:04 18 presuming there's a conversation.

09:40:05 19 THE COURT: That's like someone -- it's like  
09:40:07 20 someone saying what, if any, discussion did you have  
09:40:10 21 after you beat the person over the head. "What, if  
09:40:13 22 anything," doesn't necessarily cure it.

09:40:17 23 If you want to ask him a question -- in any event,  
09:40:20 24 it's sustained. So you need to find a way to rephrase  
09:40:23 25 it. If you want to ask him about discussions and you

09:40:25 1 want to narrow into those discussions, that's generally  
09:40:27 2 how you go into those.

09:40:31 3 It's an inverse, where you ask about something,  
09:40:34 4 general discussions, what is the nature -- what, if  
09:40:35 5 anything, you discussed. Then it goes down, he'll give  
09:40:38 6 a list, and then you can ask him about the list. I  
09:40:41 7 think that's ordinarily how it goes.

09:40:43 8 MS. LAKE: I understand. Just for the record,  
09:40:45 9 I disagree, respectfully disagree --

09:40:46 10 THE COURT: Well, it doesn't matter if you  
09:40:48 11 disagree, because I've sustained the objection. The  
09:40:50 12 record is made. You need to rephrase the question.

09:40:53 13 All right. Thank you.

09:40:54 14 (End of sidebar, open court as follows:)

09:41:06 15 BY MS. LAKE:

09:41:06 16 Q. What else, if anything, have you and Walter Hill  
09:41:10 17 discussed?

09:41:12 18 A. Family matters, relationships, life.

09:41:17 19 Q. Have you discussed anything aside from family  
09:41:21 20 matters?

09:41:22 21 MR. MINGOLLA: Objection. Asked and answered.

09:41:24 22 THE COURT: Overruled.

09:41:25 23 THE WITNESS: Drug trafficking.

09:41:27 24 BY MS. LAKE:

09:41:27 25 Q. What have you discussed regarding drug trafficking?

09:41:31 1 A. He had shared with me --

09:41:32 2 MR. MINGOLLA: Objection. Leading.

09:41:34 3 THE COURT: Overruled.

09:41:35 4 THE WITNESS: He had shared with me that he

09:41:40 5 had, that he, you know, traffics kilos of cocaine to

09:41:45 6 Puerto Rico.

09:41:45 7 BY MS. LAKE:

09:41:45 8 Q. And has Mr. Walter Hill told you how he's done

09:41:49 9 that?

09:41:50 10 A. Yes.

09:41:51 11 Q. What, if anything, did he tell you?

09:41:55 12 A. He had told me that he would use the ferry company

09:42:00 13 that does charters to Fajardo, that he would put the

09:42:07 14 cocaine on the ferry and take it down to Fajardo.

09:42:10 15 Q. And what else, if anything, has he told you?

09:42:17 16 A. It would be hidden, and the manner that he would

09:42:20 17 get it off the boat, and stuff like that.

09:42:22 18 Q. Has he told you how many times he's done that?

09:42:26 19 A. Not how many -- several times, but not how many

09:42:30 20 times.

09:42:32 21 Q. Has Walter Hill told you anything else?

09:42:39 22 MR. MINGOLLA: Objection. Asked and answered.

09:42:41 23 This is redundant. It's the third questions.

09:42:48 24 THE COURT: All right. Overruled.

09:42:49 25 THE WITNESS: Anything else regarding? I

09:42:52 1 don't --

09:42:53 2 BY MS. LAKE:

09:42:53 3 Q. In general, has Mr. Hill -- Walter Hill told you

09:42:56 4 anything else?

09:43:03 5 A. Just talk. We talk almost everyday.

09:43:07 6 Q. And has, how do you, have you had any conversations

09:43:10 7 with Mr. Tapia?

09:43:12 8 A. Yes.

09:43:13 9 Q. Had Mr. Tapia ever told you anything?

09:43:17 10 A. I know that he had assisted in taking cocaine to

09:43:22 11 Puerto Rico also with Walter.

09:43:24 12 Q. And what, if anything, did Mr. Tapia tell you

09:43:28 13 regarding that?

09:43:34 14 A. I know that they had met --

09:43:36 15 THE COURT: Counsel, are you going to establish

09:43:42 16 a time frame?

09:43:43 17 BY MS. LAKE:

09:43:44 18 Q. When did this happen, Mr. Hill?

09:43:45 19 A. Prior to the last transaction. I don't remember

09:43:48 20 the date.

09:43:48 21 Q. When you say "prior," can you estimate --

09:43:50 22 A. Prior to May 17th. A month, two months. I don't

09:43:58 23 remember exactly the time frame.

09:44:00 24 Q. But it was around that time frame?

09:44:03 25 A. Yes, I would say that.

09:44:05 1 Q. What, if anything, did Mr. Tapia tell you?

09:44:08 2 A. I know that we, he had came to St. John. And I

09:44:11 3 took him by Walter's house and we all met there. And he

09:44:17 4 discussed his ability to take cocaine from St. John to

09:44:22 5 Fajardo via the DPNR vessel.

09:44:27 6 Q. And what else, if anything, was said?

09:44:33 7 A. They discussed, you know, how much it would be and

09:44:37 8 discussed that, I think Tapia had told us that he

09:44:42 9 couldn't be boarded on the way down. I think they

09:44:46 10 were -- as far as I know, there were two occasions that

09:44:50 11 they went down.

09:44:50 12 Q. And do you know the time frame of those two

09:44:52 13 occasions?

09:44:54 14 A. No. I don't remember the time frame.

09:44:57 15 Q. And what, if anything, has Mr. Walter Hill told you

09:45:01 16 regarding those two occasions?

09:45:04 17 MR. MINGOLLA: You know, Judge, I'm going to

09:45:06 18 object to this line of questioning on relevancy. We're

09:45:08 19 talking about a specific incident --

09:45:10 20 THE COURT: Hold on.

09:45:11 21 MR. MINGOLLA: -- against my client.

09:45:12 22 THE COURT: Hold on.

09:45:13 23 MR. MINGOLLA: -- on May 17th.

09:45:14 24 THE COURT: Hold on -- Attorney. Hold on.

09:45:16 25 Overruled.

09:45:17 1 BY MS. LAKE:

09:45:17 2 Q. What else, if anything, has Mr. Walter Hill told

09:45:20 3 you regarding these two occasions?

09:45:23 4 A. He told me that -- I don't remember if it was -- I

09:45:26 5 think the first time they went down, everything went

09:45:28 6 well. And then the second time it went down there was a

09:45:33 7 problem with Customs had stopped them somewhere outside

09:45:37 8 of Fajardo, and they had decided to turn around and come

09:45:41 9 back.

09:45:42 10 Q. And what else -- did he tell you why?

09:45:48 11 A. Customs had stopped them and were questioning them.

09:45:50 12 Q. When you say "them," who is them?

09:45:52 13 A. I'm sorry. Questioning Walter and Tapia.

09:45:58 14 Q. And what else, if anything, was, did Mr. Walter

09:46:03 15 Hill tell you?

09:46:04 16 A. Just that they had to come back.

09:46:08 17 Q. Has Mr. Walter Hill told you the quantity?

09:46:11 18 A. No, no.

09:46:16 19 THE COURT: Stop leading.

09:46:27 20 BY MS. LAKE:

09:46:28 21 Q. Now showing you what has been marked as Government

09:46:28 22 Exhibit --

09:46:35 23 MS. LAKE: I'll just have a brief moment.

09:46:44 24 MR. MINGOLLA: In that brief moment, I'm going

09:46:45 25 to renew my objection to this line of questioning,

09:46:48 1 Your Honor, as to not being relevant.

09:46:51 2 THE COURT: All right. Okay. Overruled.

09:46:52 3 BY MS. LAKE:

09:46:52 4 Q. Showing what you has been marked as Government's

09:46:56 5 Exhibit 86b, as in boy.

09:46:59 6 Do you see what's in front of you?

09:47:01 7 A. Yes.

09:47:02 8 Q. What is Government's Exhibit 86b, as in boy?

09:47:08 9 A. It's a CD.

09:47:11 10 Q. And have you reviewed this?

09:47:13 11 A. Yes.

09:47:13 12 Q. And how do you know that you've reviewed this?

09:47:16 13 A. My initials and the date are on it.

09:47:22 14 Q. And now showing you -- and have you reviewed it in

09:47:25 15 its entirety?

09:47:25 16 A. I'm sorry?

09:47:26 17 Q. Have you reviewed it in its entirety?

09:47:28 18 A. Yes.

09:47:32 19 Q. Now, let me ask you, directing your attention to

09:47:35 20 October 22, 2013, what else -- what, if anything, did

09:47:39 21 you do on October 22, 2013?

09:47:43 22 A. I don't remember the date.

09:47:50 23 Q. At some point -- well, showing you Government's

09:47:54 24 Exhibit 86c-1. Do you see that in front of you?

09:47:57 25 A. Yes.

09:47:59 1 Q. And have you reviewed this -- what is it?

09:48:02 2 A. This would be a CD. It's a video, with my initials

09:48:07 3 and date on it.

09:48:08 4 Q. And why did you initial and date it?

09:48:10 5 A. Because I reviewed it.

09:48:11 6 Q. And now what are the contents -- what's on

09:48:15 7 Government's Exhibit 86b? What is it?

09:48:20 8 THE COURT: 86 what?

09:48:21 9 MS. LAKE: B as in boy.

09:48:23 10 THE WITNESS: It should be a meeting between

09:48:26 11 myself and Walter.

09:48:27 12 BY MS. LAKE:

09:48:28 13 Q. And what are the circumstances regarding your

09:48:32 14 meeting with Walter? What happened?

09:48:38 15 A. I had agreed to wear a wire. I met with some DEA

09:48:44 16 agents and FBI agents and attorneys. And I agreed to

09:48:49 17 wear a wire to show that I was telling the truth.

09:48:54 18 Q. And why did you agree to wear the wire?

09:49:02 19 A. I was just tired.

09:49:05 20 Q. Tired of what?

09:49:06 21 A. The accusations, the lies, the, just tired of it.

09:49:14 22 Just tired.

09:49:14 23 Q. So then what, if -- what happened?

09:49:18 24 A. I agreed to meet with the agents on St. John, and

09:49:24 25 they wired me for audio and video. And they gave me a

09:49:29 1 telephone to call him and ask -- call Walter to come  
09:49:39 2 where I was working at my dad car rental, and to come  
09:49:43 3 there, meet with me, and engage in conversation  
09:49:45 4 regarding drug trafficking.

09:49:46 5 Q. So then what did you do next?

09:49:50 6 A. After they wired me, I went to the car rental --  
09:49:54 7 well, I called, I went to the car rental, and he showed  
09:49:57 8 up.

09:49:57 9 Q. And what, if anything, happened next?

09:49:59 10 A. We engaged in conversation.

09:50:01 11 Q. And what, if anything, did you talk about?

09:50:05 12 A. We talked about the events on May 17th, the  
09:50:11 13 transaction between him and Tapia.

09:50:14 14 Q. When you say "him," who --

09:50:16 15 A. Between Walter and Tapia.

09:50:18 16 Q. And what, if anything, was discussed?

09:50:22 17 A. He basically -- I basically brought up the event,  
09:50:29 18 and he took over the conversation and said what had  
09:50:34 19 happened that night. Like I said, I dropped him off and  
09:50:37 20 I left.

09:50:37 21 Q. You dropped who off?

09:50:38 22 A. I dropped off Tapia and I left, and they did their  
09:50:44 23 transaction.

09:50:45 24 Q. When you say "they," who are you referring to?

09:50:47 25 A. Walter and Tapia did the transaction.

09:50:49 1 Q. And what else, if anything, did you and Walter  
09:50:52 2 discuss?

09:50:54 3 A. We spoke about, recalling he spoke about the boat  
09:51:02 4 trip down to Fajardo with Tapia. And I think those are  
09:51:12 5 the only things -- two things I could recall right now,  
09:51:14 6 you know.

09:51:15 7 Q. Now showing you Government's 86b, as in boy. Is  
09:51:20 8 this a true, complete and accurate recording of the  
09:51:24 9 conversation that you had with Walter Hill that you just  
09:51:26 10 discussed?

09:51:27 11 A. Yes.

09:51:29 12 Q. I should say that you just testified to?

09:51:32 13 MR. MINGOLLA: Objection, Your Honor. No  
09:51:33 14 foundation.

09:51:34 15 THE COURT: You need to stop leading your  
09:51:35 16 witness.

09:51:37 17 All right. Ask your next -- overruled. Ask your  
09:51:41 18 next question.

09:51:41 19 BY MS. LAKE:

09:51:42 20 Q. Is this a true and accurate and complete  
09:51:44 21 representation --

09:51:44 22 THE COURT: What is the exhibit, Mr. Hill?

09:51:48 23 THE WITNESS: Your Honor, it's Exhibit 86b.

09:51:53 24 THE COURT: What is 86b. B, like baby.

09:51:58 25 THE WITNESS: This says I said working.

09:52:00 1 THE COURT: I didn't ask you to read what's  
09:52:02 2 there. What is it?

09:52:04 3 THE WITNESS: This would be of the meeting with  
09:52:07 4 myself and Walter Hill.

09:52:12 5 THE COURT: Ask your next question.

09:52:13 6 BY MS. LAKE:

09:52:13 7 Q. And have you reviewed it?

09:52:14 8 A. Yes.

09:52:14 9 Q. In its entirety?

09:52:15 10 A. Yes.

09:52:15 11 Q. Is it true and accurate?

09:52:17 12 A. Yes. My initials are on it and date.

09:52:21 13 Q. And now showing you Government's -- are there any  
09:52:29 14 changes, deletions, additions to that recording?

09:52:32 15 MR. MINGOLLA: Objection. Leading.

09:52:34 16 THE COURT: Overruled. It's foundational.

09:52:36 17 THE WITNESS: Not that I'm aware of, no.

09:52:38 18 BY MS. LAKE:

09:52:39 19 Q. And who is speaking on this recording?

09:52:42 20 A. Myself and Walter Hill.

09:52:46 21 Q. And --

09:52:48 22 MR. MINGOLLA: Objection, Your Honor. Which  
09:52:49 23 recording are we referencing? Which disk.

09:52:52 24 THE COURT: Again. So the record is clear,  
09:52:55 25 refer to the exhibit number that we're talking about,

09:52:57 1 Attorney Lake.

09:52:58 2 BY MS. LAKE:

09:52:59 3 Q. 86b, who is speaking?

09:53:02 4 A. Myself and Walter Hill.

09:53:03 5 Q. Now showing you Government's Exhibit 86c, do you

09:53:06 6 see 86c-1 in front of you?

09:53:09 7 A. Yes.

09:53:10 8 Q. And have you reviewed Government's Exhibit 86c-1?

09:53:14 9 A. Yes.

09:53:15 10 Q. Have you reviewed it in its entirety?

09:53:17 11 A. Yes.

09:53:17 12 Q. And what, if anything, did you do after you

09:53:20 13 reviewed it?

09:53:21 14 A. Initialed it and put the date on it.

09:53:24 15 Q. And what is Government's 86c-1? What is it?

09:53:28 16 A. It's an edited video of a meeting with myself and

09:53:33 17 Walter Hill.

09:53:34 18 Q. And what is the relationship between 86c-1 and 86b?

09:53:44 19 A. I think one of them is edited and the other not --

09:53:47 20 is not edited.

09:53:49 21 Q. And is it complete and accurate?

09:53:54 22 A. Yes.

09:53:55 23 Q. When I say "it," I mean government's 86c-1. Is the

09:53:59 24 recording complete and accurate?

09:54:01 25 A. Yes.

09:54:03 1 Q. And how is it shortened? How is it edited?

09:54:10 2 MR. MINGOLLA: Objection, leading. There's  
09:54:11 3 been nothing laid to say it's been edited.

09:54:14 4 THE COURT: Overruled.

09:54:18 5 THE WITNESS: I think the sections of me just  
09:54:24 6 driving were taken out.

09:54:31 7 MS. LAKE: Your Honor, I would ask that  
09:54:32 8 Government's Exhibit 86c-1 be received in evidence.

09:54:36 9 THE COURT: Okay. Were you going to inquire on  
09:54:37 10 relevance?

09:54:38 11 BY MS. LAKE:

09:54:38 12 Q. And on 86c-1, what, if anything, were you and  
09:54:42 13 Walter discussing?

09:54:43 14 A. The transaction between, between Walter Hill and  
09:54:51 15 Mr. Tapia, he was discussing it with me.

09:54:54 16 Q. What transaction?

09:54:55 17 A. The transaction on May 17th.

09:54:58 18 Q. The transaction -- what is the transaction that  
09:55:00 19 you're talking about?

09:55:02 20 A. Of seven kilos of cocaine.

09:55:05 21 MS. LAKE: Your Honor, I would ask that  
09:55:06 22 Government's Exhibit 86c-1 be received in evidence.

09:55:09 23 THE COURT: Attorney Mingolla.

09:55:10 24 MR. MINGOLLA: I object, Your Honor.

09:55:12 25 THE COURT: Attorney Watlington.

09:55:14 1 MR. WATLINGTON: No objections, Your Honor.

09:55:15 2 THE COURT: 86c-1 is admitted.

09:55:15 3 (Government's Exhibit 86c-1 admitted into

09:55:18 4 evidence.)

09:55:18 5 MS. LAKE: I would ask that it be published for

09:55:21 6 the jury.

09:55:21 7 THE COURT: Yes.

09:55:22 8 (Exhibit published.)

09:55:49 9 MR. MINGOLLA: Your Honor --

09:55:51 10 MS. LAKE: Can you stop it?

09:55:53 11 THE COURT: Let me see counsel briefly.

09:56:09 12 (Sidebar discussion held as follows:)

09:56:14 13 THE COURT: All right. There is a portion

09:56:18 14 where there's a reference to a, I think Raymond or

09:56:24 15 someone on this. What is that?

09:56:27 16 MS. LAKE: There's a reference to a Brown.

09:56:29 17 THE COURT: Or a Brown.

09:56:31 18 MS. LAKE: It's not a defendant.

09:56:32 19 THE COURT: It's generic reference.

09:56:34 20 MS. LAKE: It's a generic reference to someone

09:56:37 21 named Brown, and there's no reference to this defendant.

09:56:38 22 They're referencing, I think, maybe a boat employee or a

09:56:42 23 federal employee.

09:56:46 24 MR. WATLINGTON: Judge, then we would need an

09:56:49 25 instruction to that effect.

09:56:51 1 MS. LAKE: I can ask him who he was referring

09:56:53 2 to and he will clearly say that it is not your client.

09:56:57 3 THE COURT: All right. How does the reference

09:56:58 4 come up?

09:57:00 5 MS. LAKE: If I can get a moment to grab the

09:57:07 6 transcript.

09:57:08 7 THE COURT: Let me see if I can get page 5.

09:57:24 8 MR. MINGOLLA: Your Honor, I'm going to be

09:57:25 9 making a Bruton objection to this entire transcript as

09:57:28 10 being unduly prejudicial.

09:58:05 11 (Pause.)

09:58:06 12 THE COURT: All right.

09:58:08 13 (Court reading.)

09:58:11 14 So there's your Brown reference.

09:58:15 15 MR. WATLINGTON: It might be a police.

09:58:16 16 THE COURT: So you say you're going to ask him

09:58:19 17 some inquiry there of what he's talking about.

09:58:22 18 MS. LAKE: I can, Your Honor, considering that

09:58:25 19 Brown is a generic name, but I know for sure,

09:58:28 20 100 percent, it is not the defendant or it is not

09:58:31 21 Raymond Brown. And the witness will say that it's

09:58:34 22 clearly not --

09:58:35 23 THE COURT: Who is it?

09:58:36 24 MS. LAKE: I don't know who the Brown is. I

09:58:38 25 think it's somebody that, I believe, given the context,

09:58:42 1 it might be somebody that Walter Hill works with, but

09:58:45 2 it's not somebody that's related to the case and who is

09:58:50 3 charged in the case or who's --

09:58:58 4 MR. MINGOLLA: If there's any insinuation that

09:59:01 5 he works with my client, I'm going to object.

09:59:05 6 THE COURT: All right. This is page 5.

09:59:07 7 MR. WATLINGTON: It might be a little long, it

09:59:09 8 might be --

09:59:11 9 MS. LAKE: As I think about it, I'm not sure.

09:59:12 10 I don't want to make any misrepresentations, but it

09:59:15 11 might have been the officer that Walter Hill testified

09:59:21 12 stopped him that night and asked for keys. I'm not

09:59:23 13 positive, but I can inquire. But it's definitely not.

09:59:26 14 THE COURT: Okay. You're going to play this

09:59:27 15 portion that appears on page 5 of the transcript?

09:59:31 16 MS. LAKE: Yes.

09:59:32 17 MR. MINGOLLA: Walter Hill asked --

09:59:33 18 THE COURT: What I'm going to do, this is --

09:59:35 19 I'm going to let panel A go to the deliberation room and

09:59:42 20 then we'll continue. All right.

09:59:44 21 (End of sidebar, open court as follows:)

09:59:50 22 THE COURT: All right. For those of you who

09:59:51 23 are on panel A, we are going to take a break.

09:59:53 24 So panel A, you can head to the deliberation room.

09:59:59 25 Panel A.

10:00:30 1 (Panel A not present).

10:00:35 2 THE COURT: Okay. Go ahead.

10:00:37 3 MS. LAKE: Let's start from the beginning,

10:00:39 4 please. 86c-1.

10:00:41 5 (Exhibit published.)

10:01:18 6 MS. LAKE: Can we stop it here?

10:01:20 7 BY MS. LAKE:

10:01:20 8 Q. Mr. Hill, who is speaking?

10:01:21 9 A. Myself and Walter.

10:01:23 10 MS. LAKE: Can you keep playing it, please?

10:03:22 11 Can you stop it here?

10:03:22 12 BY MS. LAKE:

10:03:23 13 Q. Mr. Hill, what are you two discussing here?

10:03:26 14 A. We were discussing about Roberto Tapia being out on

10:03:32 15 bail, and the status of the case.

10:03:34 16 Q. And why are you discussing --

10:03:36 17 MR. MINGOLLA: Your know, Your Honor, I'm going

10:03:38 18 to object to this. The jury has ears. The jury speaks

10:03:43 19 English. The tape is in English --

10:03:49 20 THE COURT: All right. Overruled.

10:03:50 21 BY MS. LAKE:

10:03:50 22 Q. Why were you discussing that?

10:03:51 23 A. We were trying to figure out what's going on with

10:03:53 24 the case, if Tapia was cooperating, why he was out on

10:03:59 25 bail and stuff like that.

10:04:01 1 Q. And --

10:04:02 2 MR. MINGOLLA: Objection. Calls for

10:04:03 3 speculation.

10:04:04 4 THE COURT: Sustained.

10:04:04 5 BY MS. LAKE:

10:04:05 6 Q. And why are you discussing this?

10:04:08 7 A. Concerned about, you know, if something would

10:04:13 8 happen to him if Tapia was speaking, just trying to

10:04:16 9 figure out what was going on with the investigation.

10:04:18 10 MR. MINGOLLA: Objection. Speculation.

10:04:20 11 THE COURT: Sustained.

10:04:24 12 MS. LAKE: Can you continue playing the tape,

10:04:26 13 please?

10:05:41 14 Can we stop here?

10:05:42 15 BY MS. LAKE:

10:05:43 16 Q. What are you and -- what are you and Mr. Walter

10:05:46 17 Hill discussing here?

10:05:47 18 A. The events that took place on the 17th. It was --

10:05:54 19 I had, I had initiated the conversation, going to start

10:05:58 20 saying what actually happened that night.

10:06:04 21 MS. LAKE: Can we keep playing it?

10:06:54 22 Can you stop it here?

10:06:55 23 BY MS. LAKE:

10:06:55 24 Q. What is Mr. Walter Hill saying at this point?

10:07:02 25 MR. MINGOLLA: I would object --

10:07:03 1 THE COURT: Sustained.

10:07:04 2 Rephrase your question.

10:07:05 3 BY MS. LAKE:

10:07:06 4 Q. What are you and Mr. Hill talking about?

10:07:08 5 MR. MINGOLLA: Again, I object, Your Honor.

10:07:09 6 THE COURT: Overruled.

10:07:09 7 THE WITNESS: We're discussing the events of

10:07:12 8 May 17th. He is saying what actually took place, that I

10:07:17 9 had dropped off Tapia by his vehicle, and that I had

10:07:23 10 left.

10:07:25 11 BY MS. LAKE:

10:07:25 12 Q. And what else, if anything, is being said at this

10:07:28 13 point?

10:07:29 14 MR. MINGOLLA: Your Honor, asked and answered.

10:07:31 15 Objection.

10:07:32 16 THE COURT: Sustained.

10:07:34 17 MS. LAKE: Can we keep playing the video,

10:07:36 18 please?

10:08:01 19 Can you stop it right here?

10:08:03 20 BY MS. LAKE:

10:08:03 21 Q. Who is speaking right now?

10:08:04 22 A. Myself and Walter Hill.

10:08:05 23 Q. And what, if anything, is being said?

10:08:08 24 A. Discussing the events of May 17th, that I had

10:08:12 25 dropped off Tapia to the vehicle that he was operating,

10:08:18 1 that Walter was operating. And that I left and they had  
10:08:26 2 pulled off -- I spotted the lady, and they happened to  
10:08:30 3 be back by the inspection lane.

10:08:32 4 So when I pulled in, I pulled in forward. I pulled  
10:08:35 5 in more or less side to side by her, and that's when  
10:08:38 6 Tapia came from between the cars and got into my  
10:08:43 7 vehicle.

10:08:43 8 Q. And what --

10:08:44 9 A. He was not where I had left him.

10:08:46 10 Q. And what, if anything, is Mr. Walter Hill saying at  
10:08:51 11 this point?

10:08:52 12 A. He is just --

10:08:54 13 MR. MINGOLLA: Your Honor, objection.

10:08:55 14 THE COURT: Sustained. It's not leading, but  
10:08:57 15 sustained.

10:08:58 16 Next question.

10:08:59 17 MS. LAKE: Can you keep playing it, please?

10:10:41 18 Can you stop it here?

10:10:42 19 BY MS. LAKE:

10:10:42 20 Q. Who is speaking right at this point?

10:10:45 21 A. Myself and Walter.

10:10:46 22 Q. And what, if anything, is being said?

10:10:50 23 MR. MINGOLLA: Objection, Your Honor. Leading.

10:10:52 24 THE COURT: Sustained.

10:10:53 25

10:10:53 1 BY MS. LAKE:

10:10:53 2 Q. What is being said right now?

10:10:54 3 THE COURT: Sustained.

10:10:55 4 MR. MINGOLLA: Objection, Your Honor. Leading.

10:10:56 5 THE COURT: It's not leading. Sustained.

10:10:59 6 BY MS. LAKE:

10:10:59 7 Q. What, if --

10:11:01 8 THE COURT: 403.

10:11:03 9 MS. LAKE: Keep playing the video, please.

10:13:26 10 Can you stop it here?

10:13:28 11 BY MS. LAKE:

10:13:28 12 Q. Who is speaking right now?

10:13:30 13 A. Myself and Walter.

10:13:32 14 Q. And can you see the video in front of you?

10:13:34 15 A. Yes.

10:13:34 16 Q. Who is that right now?

10:13:36 17 A. Walter.

10:13:38 18 MS. LAKE: Can we keep playing, please?

10:17:21 19 THE COURT: All right. We're going to take a

10:17:23 20 break now, ladies and gentlemen.

10:17:23 21 Ladies and gentlemen, it is time for our morning

10:17:26 22 break.

10:17:58 23 (Jury out).

10:18:03 24 THE COURT: Mr. Hill, we're going to take a

10:18:05 25 ten-minute break. Do not discuss your testimony during

10:18:08 1 the break. Do you understand?

10:18:10 2 THE WITNESS: Yes, sir.

10:18:11 3 THE COURT: All right. Thank you. You can

10:18:12 4 step down with the marshal.

10:18:14 5 (Witness stood aside).

10:18:39 6 THE COURT: Attorney Lake, how much longer is

10:18:40 7 this tape? How long is the tape in total?

10:18:49 8 MS. LAKE: In total, the tape is 33 minutes,

10:18:52 9 Your Honor.

10:18:54 10 THE COURT: And what minute are we at right

10:18:56 11 now?

10:18:57 12 MS. LAKE: If I could have a moment?

10:19:03 13 There's 16 minutes left.

10:19:05 14 THE COURT: All right. Okay. Anything we need

10:19:07 15 to cover before our break?

10:19:09 16 MS. LAKE: No, Your Honor.

10:19:10 17 THE COURT: Attorney Mingolla.

10:19:12 18 MR. MINGOLLA: I'm going to renew the 403

10:19:17 19 motion that I made at sidebar.

10:19:20 20 THE COURT: Okay. Very well.

10:19:21 21 Attorney Watlington?

10:19:23 22 MR. WATLINGTON: Nothing, Your Honor.

10:19:24 23 THE COURT: Very good. Ten minutes, Counsel.

10:19:26 24 (Court in recess, 10:19 a.m.)

10:35:34 25 (After recess, Jury Panel B present, 10:35 a.m.)

10:35:42 1 THE COURT: Attorney Lake, go ahead.

10:35:44 2 MS. LAKE: Can you please continue playing

10:35:49 3 Government's 86c-1.

10:51:35 4 (Pause) .

10:51:37 5 MS. LAKE: If we can just have a moment, Your

10:51:40 6 Honor?

10:51:40 7 THE COURT: Yes.

10:53:53 8 MS. LAKE: Can we stop it here?

10:53:55 9 BY MS. LAKE:

10:53:55 10 Q. Who is speaking now?

10:53:58 11 A. Myself and Walter.

10:53:59 12 Q. Is there anyone else talking right now?

10:54:02 13 A. I had a phone call, and my sister-in-law walked by.

10:54:07 14 Q. And did you leave the presence of Walter Hill to

10:54:09 15 take that phone call?

10:54:11 16 MR. MINGOLLA: Excuse me. Objection, Your

10:54:13 17 Honor.

10:54:14 18 THE COURT: Sustained.

10:54:15 19 BY MS. LAKE:

10:54:15 20 Q. What, if anything, did you do?

10:54:18 21 A. I just walked away, asked my father to pass the

10:54:23 22 cordless phone, and I took the call.

10:54:24 23 Q. And what happened next?

10:54:26 24 A. And then we started talking again.

10:54:29 25 Q. And how did you start talking again?

10:54:32 1 A. I don't remember what I said, but we just started  
10:54:35 2 talking about the transactions again.

10:54:38 3 MS. LAKE: Can we keep playing it?

10:57:07 4 BY MS. LAKE:

10:57:07 5 Q. What, if anything, happened at the conclusion of  
10:57:10 6 your conversation with Walter Hill?

10:57:13 7 A. Went back and met with the agents, and they took  
10:57:16 8 off the recording device.

10:57:22 9 Q. So what are you and Walter Hill talking about  
10:57:26 10 specifically?

10:57:27 11 A. The events of May 17th, going down on the boat  
10:57:34 12 to --

10:57:35 13 THE COURT: All right. We've been over this.

10:57:36 14 Let's move on.

10:57:37 15 MS. LAKE: Thank you. I have nothing further.

10:57:39 16 THE COURT: Okay. Attorney Mingolla?

10:57:41 17 MR. MINGOLLA: Yes, sir.

10:57:59 18 Just two seconds, Judge, please.

10:59:29 19 CROSS-EXAMINATION

10:59:29 20 BY MR. MINGOLLA:

10:59:39 21 Q. Good morning --

10:59:41 22 A. Good morning.

10:59:46 23 Q. -- Mr. Hill.

10:59:47 24 MR. MINGOLLA: Good morning, ladies and  
10:59:49 25 gentlemen.

10:59:51 1 BY MR. MINGOLLA:

10:59:53 2 Q. Now, Mr. Hill, you've indicated in your testimony,  
11:00:10 3 your prior testimony here, that you worked for Customs,  
11:00:18 4 then you worked again in '87, and then you were in an  
11:00:25 5 investigation unit, then you were an assistant  
11:00:29 6 commissioner, a deputy chief, and in, and then assigned  
11:00:37 7 to St. John nine months or so ago. So you've been a  
11:00:46 8 police officer or a law enforcement officer for, since  
11:00:51 9 1987, in essence, if you include Customs, correct?

11:00:55 10 A. Correct.

11:00:57 11 Q. And you -- you indicated that, in your testimony  
11:01:29 12 that, well, strike that.

11:01:38 13 You have, you have been friends with Mr. Walter  
11:01:49 14 Hill personally all your life, correct?

11:01:52 15 A. More or less, yes.

11:01:54 16 Q. And Mr. Hill has -- my client, Mr. Hill, has been  
11:02:11 17 your sort of, let's call him your go-to guy when you  
11:02:16 18 need to borrow money or when you need help with  
11:02:19 19 mechanical problems on vehicles and so forth, because  
11:02:23 20 he's a mechanic, correct?

11:02:24 21 A. Yes.

11:02:29 22 Q. And he's always come through for you with lending  
11:02:33 23 you money when you've asked for it, or fixing your  
11:02:36 24 jeeps. You do have some jeeps, right?

11:02:40 25 A. My father has a car rental, yes.

11:02:43 1 Q. But you own them?

11:02:44 2 A. If I own them?

11:02:46 3 Q. Yes.

11:02:46 4 A. No.

11:02:47 5 Q. And so he would, you know, try and help you out

11:02:58 6 whenever he could, correct?

11:03:01 7 A. Correct.

11:03:04 8 Q. And you --

11:03:18 9 MR. MINGOLLA: Just a moment, Judge.

11:03:30 10 BY MR. MINGOLLA:

11:03:30 11 Q. Now, you were arrested in May, correct? May of

11:03:41 12 2013?

11:03:42 13 A. Yes.

11:03:42 14 Q. And you were arrested when you arrived in St.

11:03:51 15 Thomas, correct?

11:03:53 16 A. No. I was arrested at the, in the afternoon at the

11:03:59 17 Paragon building, coming from the doctor's office.

11:04:05 18 Q. Okay. All right. Fine. And you had, from that

11:04:14 19 point on, from the time of your arrest on, you had at

11:04:27 20 least, at the very least, six meetings, if not

11:04:37 21 significantly more, with government agents and/or

11:04:42 22 government attorneys, correct?

11:04:44 23 A. No.

11:04:49 24 Q. Isn't it true that you met with Agents Querrard and

11:04:53 25 Joseph?

11:04:55 1 A. Yes.

11:04:57 2 Q. And they work for the government, don't they?

11:05:00 3 A. Yes.

11:05:00 4 Q. And they work with the HIDTA Task Force, don't

11:05:06 5 they?

11:05:06 6 A. Correct.

11:05:07 7 Q. And you met with AUSA, Assistant U.S. Attorney

11:05:11 8 Lindquist --

11:05:12 9 A. Yes.

11:05:13 10 Q. -- correct?

11:05:13 11 A. Yes. Uhm-hmm.

11:05:16 12 Q. And you met with at least three other, let's call

11:05:31 13 them government agents, correct?

11:05:35 14 A. I did two proffers and met with the task force

11:05:41 15 agents and agents twice.

11:05:44 16 Q. I'm sorry; you met with whom?

11:05:46 17 A. I had two proffers and I met with, as I recall, two

11:05:50 18 proffers, and I met with task force agents and other

11:05:53 19 agents, I think twice.

11:05:57 20 Q. Are you trying to tell me that you only met with

11:06:03 21 government agents between all of that time and today,

11:06:07 22 twice?

11:06:07 23 A. Yes.

11:06:08 24 Q. And when were those times?

11:06:10 25 A. I had the two proffers with the U.S. attorney,

11:06:15 1 and -- the assistant U.S. attorney twice, along with FBI  
11:06:25 2 and DEA agents. And then I met and did two wires. I  
11:06:31 3 don't recall any other meetings.

11:06:33 4 Q. And those meetings took place where?

11:06:38 5 A. The proffers took place at Attorney King's office.  
11:06:43 6 And the wires were done --

11:06:47 7 Q. Who is Attorney King?

11:06:48 8 A. My attorney.

11:06:52 9 Q. Go on.

11:06:54 10 A. The wires were done up at the -- well, they were  
11:06:58 11 placed on me up at the rear of the gentleman who have a  
11:07:03 12 Witness' church on St. John.

11:07:06 13 Q. And isn't it true that you were instructed -- isn't  
11:07:25 14 it true that you were instructed, based on reports by  
11:07:30 15 Querrard and Joseph, to contact my client to arrange a  
11:07:38 16 meeting between you and my client at Delbert Hill's Jeep  
11:07:43 17 Rental?

11:07:43 18 A. Yes.

11:07:50 19 Q. And isn't it true that you were somewhat reluctant  
11:07:53 20 to do that?

11:07:54 21 A. Reluctant?

11:07:56 22 Q. Yes.

11:07:57 23 A. No.

11:08:02 24 Q. And were you aware of the fact that -- well, you've  
11:08:10 25 indicated that a recording device, you had a recording

11:08:13 1 device placed on you?

11:08:15 2 A. Yes.

11:08:16 3 Q. Where?

11:08:19 4 A. I wore a watch with a camera, and a mug with a

11:08:24 5 mike.

11:08:25 6 Q. And a what?

11:08:27 7 A. A mug.

11:08:29 8 Q. A mouth?

11:08:31 9 A. A mug, a drinking mug.

11:08:32 10 Q. Oh, a mug. I'm sorry, I'm sorry. A mug. Okay.

11:08:36 11 So there were two devices?

11:08:38 12 A. Yes.

11:08:39 13 Q. And had you been told that there were two devices

11:08:47 14 or one device, in advance? You had been told one or

11:08:51 15 two, three, five?

11:08:52 16 A. No, I didn't know what they would be.

11:08:57 17 Q. Now, you -- did you -- where did you hear these

11:09:16 18 working copies of the Government's Exhibit 86, disk 86b

11:09:27 19 and 86c, the 86b, I don't know if it's b-1 or -- we'll

11:09:34 20 say 86b and 86c. Where did you hear those?

11:09:38 21 A. At the US Attorney's Office.

11:09:40 22 Q. And were you asked, isn't it true that you were

11:09:46 23 asked to make comments about these, what you were

11:09:51 24 hearing?

11:09:53 25 A. I don't understand, "comments."

11:09:55 1 Q. You what?

11:09:56 2 A. I don't understand the question. You said comments

11:10:00 3 about?

11:10:00 4 Q. Were you questioned about the contents of the disk,

11:10:07 5 what you were hearing?

11:10:08 6 A. Yes.

11:10:11 7 Q. And isn't it true that initially you made --

11:10:31 8 MR. MINGOLLA: Bear with me, Judge.

11:10:52 9 BY MR. MINGOLLA:

11:10:52 10 Q. You indicated that -- did, did the -- at these

11:11:07 11 debriefings, let's call them, you keep, you referenced

11:11:11 12 them as proffers, I believe. I refer to them as

11:11:14 13 debriefings. So if I say debriefings, what you've been

11:11:19 14 referring to as proffers, during these proffers slash

11:11:24 15 debriefings, were you asked about other individuals

11:11:30 16 involved in narcotics trafficking?

11:11:34 17 A. Yes.

11:11:41 18 Q. And did you cooperate in identifying other

11:11:46 19 individuals involved in narcotics trafficking?

11:11:50 20 MS. LAKE: Objection. Relevance.

11:11:51 21 THE COURT: Overruled.

11:11:55 22 THE WITNESS: Could you repeat the question?

11:11:57 23 BY MR. MINGOLLA:

11:11:57 24 Q. Did you identify other individuals involved in

11:12:01 25 narcotics trafficking?

11:12:02 1 A. Yes.

11:12:08 2 Q. More than, more than four individuals?

11:12:18 3 A. I don't think more than four, no.

11:12:21 4 Q. And why, as a police officer or a law enforcement

11:12:39 5 officer, had you -- you didn't take action against those

11:12:44 6 individuals because you were basically working in

11:12:47 7 conjunction with those individuals in one way or

11:12:51 8 another, correct?

11:12:52 9 A. Which individuals?

11:12:53 10 Q. The individuals whom you identified as being

11:12:56 11 involved in narcotics trafficking?

11:12:58 12 A. No. No, the individuals that I identified were

11:13:07 13 individuals that may have been involved in that same

11:13:15 14 investigation.

11:13:15 15 Q. All right. Did you investigate them?

11:13:22 16 A. No.

11:13:23 17 Q. You didn't?

11:13:23 18 A. No.

11:13:24 19 Q. No. And yet you were at that time, when you were

11:13:34 20 identifying these people -- I'm sorry, you were starting

11:13:43 21 with the investigation in St. John, correct?

11:13:45 22 A. When I identified them, you say?

11:13:47 23 Q. Yes, to the government?

11:13:49 24 A. No, I was on bail.

11:13:51 25 Q. But you were hitherto --

11:13:54 1 A. I'm sorry?

11:13:55 2 Q. Prior to that, you had been acting as a police

11:13:59 3 officer, correct? Before your arrest?

11:14:04 4 A. Yes. I was a sergeant, yes.

11:14:09 5 Q. And you took no action? You took no action to

11:14:13 6 investigate those four individuals, these four

11:14:16 7 individuals that you're -- you, whose names you

11:14:19 8 mentioned to the government?

11:14:21 9 A. The individuals that I identified were from a photo

11:14:25 10 album that was shown to me by the task force --

11:14:29 11 Q. That's not what I asked. I asked: Did you take

11:14:32 12 any action against the individuals whom you mentioned to

11:14:36 13 the government?

11:14:36 14 A. How would I take action? I was under arrest. I

11:14:41 15 don't understand your question.

11:14:42 16 Q. When you were acting in your capacity --

11:14:45 17 A. I had no knowledge of those people being involved

11:14:48 18 in anything until I was told.

11:14:53 19 Q. I see. And you say that you indicated that you

11:15:03 20 had -- let's go to the context of the meeting that you

11:15:28 21 had with my client.

11:15:35 22 Agents Querrard and Joseph instructed you to meet

11:15:38 23 with him, correct?

11:15:39 24 A. Correct.

11:15:40 25 Q. And Agent Grossman, I believe, who testified

11:15:45 1 yesterday, indicated that he, that he was the one who  
11:15:50 2 attached this wrist watch audio-visual device, correct?  
11:16:01 3 MS. LAKE: Objection. Misstates the evidence.  
11:16:04 4 THE COURT: Overruled.  
11:16:04 5 THE WITNESS: No, I think it was Mark, Mark  
11:16:08 6 Joseph, that put the watch on.  
11:16:09 7 BY MR. MINGOLLA:  
11:16:10 8 Q. Okay. And was it your impression that that watch  
11:16:17 9 was going to be the only audio-visual device that was to  
11:16:21 10 be used?  
11:16:23 11 A. No.  
11:16:26 12 Q. So it was your impression that in addition to this  
11:16:33 13 watch audio-visual device, that there was going to be a  
11:16:39 14 secondary audio-visual device employed at that meeting?  
11:16:44 15 A. No. To my understanding the watch was just video,  
11:16:49 16 and the mug was audio.  
11:17:09 17 Q. And would it surprise you that the watch was both  
11:17:11 18 an audio-visual device?  
11:17:13 19 A. No.  
11:17:16 20 Q. And would it surprise you that no one, say, for  
11:17:22 21 Agents Querrard, FBI Agent Fernandez and Mark Joseph,  
11:17:27 22 who is Agent Querrard's partner, were the only ones who  
11:17:32 23 knew about this cup?  
11:17:35 24 MS. LAKE: Objection. Relevance. Exceeds the  
11:17:37 25 scope of direct. Calls for speculation.

11:17:39 1 THE COURT: 403. Sustained.

11:17:39 2 BY MR. MINGOLLA:

11:18:03 3 Q. And you -- where do you live?

11:18:04 4 A. I live on St. John.

11:18:16 5 Q. And you, you recently built a home there, did you

11:18:19 6 not?

11:18:20 7 A. Not recently, no.

11:18:21 8 Q. Well, within the past -- let me redefine

11:18:25 9 "recently." Within the past, let's say, three or

11:18:28 10 four years?

11:18:29 11 A. No.

11:18:31 12 Q. Do you know -- aren't you currently under

11:18:37 13 investigation for other alleged crimes?

11:18:41 14 A. Not that I'm aware of, no.

11:18:45 15 Q. Are you saying you're unaware of the fact that

11:18:48 16 you're under investigation for --

11:18:49 17 THE COURT: Stop.

11:18:50 18 Next question.

11:18:57 19 BY MR. MINGOLLA:

11:18:57 20 Q. And the -- you've told people your home in -- that

11:19:05 21 this new home that you had built is worth about two

11:19:10 22 hundred -- \$2.5 million, or approximately that?

11:19:15 23 MS. LAKE: Objection, relevance.

11:19:17 24 THE COURT: Overruled.

11:19:18 25 THE WITNESS: No.

11:19:18 1 BY MR. MINGOLLA:

11:19:21 2 Q. And didn't you boast to people that it only cost  
11:19:25 3 you \$250,000 to build it?

11:19:29 4 MS. LAKE: Objection. Relevance. Calls for  
11:19:31 5 hearsay.

11:19:32 6 THE WITNESS: No.

11:19:32 7 THE COURT: Overruled.

11:19:34 8 BY MR. MINGOLLA:

11:19:34 9 Q. And didn't that house get constructed more or less  
11:19:38 10 at the same time that the new police station was being  
11:19:41 11 constructed in St. John?

11:19:43 12 A. No.

11:19:50 13 Q. So it's not true that you were assisted in the  
11:19:52 14 construction of your \$2-1/2 million home by the same  
11:19:58 15 contractors working on the police station in St. John?

11:20:03 16 MS. LAKE: Objection. Assumes facts not in  
11:20:05 17 evidence, Your Honor.

11:20:06 18 THE COURT: All right. 403, sustained.

11:20:09 19 THE WITNESS: No, attorney, I think you're  
11:20:12 20 confused --

11:20:13 21 THE COURT: Stop.

11:20:14 22 THE WITNESS: Oh, sorry.

11:20:16 23 THE COURT: Next question.

11:20:17 24 BY MR. MINGOLLA:

11:20:18 25 Q. And you, you indicated that, you indicated that, in

11:20:39 1 your testimony today, actually, that you picked up

11:20:46 2 Mr. Tapia in St. John, correct, in your police vehicle,

11:20:52 3 correct?

11:20:52 4 A. Yes.

11:20:53 5 Q. And you drove him to a certain spot, certain

11:21:01 6 location, correct?

11:21:02 7 A. Yes.

11:21:06 8 Q. And when you got to that location initially --

11:21:11 9 strike that.

11:21:12 10 When you got to that location, it was dark. You

11:21:16 11 testified to that, correct?

11:21:18 12 A. Yes.

11:21:18 13 Q. And that you could not identify -- you saw, you saw

11:21:24 14 vehicles, you couldn't identify anyone in the vehicles?

11:21:29 15 A. No, I could not see in the vehicle.

11:21:33 16 Q. You, you -- all right.

11:21:39 17 So you could not identify my client, Walter Hill,

11:21:42 18 as being in a vehicle, correct?

11:21:43 19 A. Correct.

11:21:44 20 Q. And you indicate that -- you indicate that -- you

11:22:12 21 indicate that, you indicated that you saw a, you saw an

11:22:30 22 SUV in the area when you arrived?

11:22:43 23 A. I don't recall saying that, no.

11:22:53 24 Q. Okay. You -- so you drop off Mr. Tapia. It's

11:23:10 25 dark. Can't identify my client. Then you drove, you

11:23:15 1 drove away, correct? You drove sort of around the block

11:23:20 2 or somewhere, correct?

11:23:22 3 A. I dropped him off to the vehicle that I know that

11:23:26 4 my cousin -- that Walter operates.

11:23:32 5 Q. I see. And what vehicle would that be? What kind

11:23:41 6 of vehicle? What make?

11:23:44 7 A. A blue Ford -- not an Escape. I can't remember

11:23:53 8 the -- it's an SUV, but I can't remember the model.

11:23:58 9 Q. That's a Ford?

11:23:59 10 A. Yes.

11:23:59 11 Q. Does it surprise you that in his testimony,

11:24:02 12 Mr. Tapia said it was a blue Suzuki?

11:24:05 13 A. I don't know what he saw. I know where I dropped

11:24:08 14 him.

11:24:09 15 Q. Did you see a blue Suzuki?

11:24:13 16 A. No.

11:24:13 17 Q. When I say a Suzuki, I mean a Suzuki SUV, those

11:24:19 18 little --

11:24:20 19 A. Yeah, I know what you mean.

11:24:24 20 Q. And you -- Agent Querrard and perhaps Agent Joseph,

11:24:43 21 but let's say Agent Querrard, I'll restrict it to Agent

11:24:51 22 Querrard, instructed you to get a hold of Mr. Hill and

11:24:56 23 arrange a meeting, correct?

11:24:57 24 A. Yes.

11:25:01 25 Q. And he instructed you as to where the meeting was

11:25:03 1 to take place, correct?

11:25:06 2 A. Yes.

11:25:07 3 Q. And that meeting was to take place at your --

11:25:13 4 MR. MINGOLLA: One moment, Judge.

11:25:18 5 THE COURT: Yes.

11:25:18 6 BY MR. MINGOLLA:

11:25:18 7 Q. At your father's car -- jeep, I don't know the

11:25:24 8 other stuff, but primarily jeep rental agency, correct?

11:25:29 9 A. Correct.

11:25:30 10 Q. And you -- are you aware also that -- so -- strike

11:26:09 11 that.

11:26:09 12 So you proceed to arrange a meeting or, you know,

11:26:15 13 attempt to arrange a meeting with Mr. Walter Hill,

11:26:18 14 correct?

11:26:21 15 A. Yes.

11:26:22 16 Q. And you did that by telephone, correct?

11:26:24 17 A. Yes.

11:26:25 18 Q. And approximately how long did it take from the

11:26:40 19 time that you called Mr. Hill, my client, to have a

11:26:52 20 meet, for him to arrive, approximately?

11:26:58 21 A. Fifteen minutes; ten, fifteen minutes.

11:27:01 22 Q. And isn't it true that you made up to 12 telephone

11:27:07 23 calls to Mr. Hill, asking him, "Why aren't you here?

11:27:14 24 Hurry up," you know, and you made 12 phone calls to him

11:27:18 25 in that period of time?

11:27:19 1 A. No.

11:27:25 2 Q. Are you sure?

11:27:25 3 A. Positive.

11:27:26 4 Q. If not 12, then, let us say you made more than one

11:27:36 5 call to him, did you not?

11:27:37 6 A. If he wasn't in, yes, I made more than one call.

11:27:41 7 Q. And it could have been as many as, notwithstanding

11:27:46 8 whether he was in or not in, it could have been as many

11:27:54 9 as up to ten phone calls in that period of time?

11:27:57 10 A. No, I don't -- no.

11:28:04 11 Q. Now, is it customary -- now, I'm sorry, you said

11:28:13 12 what, the time line between the last call and his

11:28:16 13 arrival was, what, 18 minutes?

11:28:19 14 I'm sorry, I --

11:28:20 15 A. I don't understand your question.

11:28:21 16 Q. You indicated that between the time of your last

11:28:24 17 call to Mr. Hill, of the numerous calls you made to

11:28:28 18 Mr. Hill, it took how long for him to arrive at

11:28:32 19 Delbert's jeep rental?

11:28:35 20 MS. LAKE: Objection. Misstates the testimony.

11:28:37 21 Assumes facts not in evidence.

11:28:39 22 THE COURT: Overruled.

11:28:40 23 THE WITNESS: I think it's like 10, 15 minutes

11:28:44 24 for him to get there.

11:28:46 25

11:28:46 1 BY MR. MINGOLLA:

11:28:46 2 Q. Do you ordinarily -- if you're going to meet with  
11:28:48 3 someone, anyone, a friend or, you know, relative,  
11:28:57 4 whatever, is it customary for you to make, in 15 to  
11:29:01 5 18 minutes, up to 8 phone calls to ask where they are?

11:29:08 6 MS. LAKE: Objection. Relevance.

11:29:10 7 THE COURT: Sustained.

11:29:11 8 THE WITNESS: I never ask him --

11:29:12 9 THE COURT: Stop.

11:29:13 10 THE WITNESS: Sorry.

11:29:15 11 MR. MINGOLLA: I'm sorry?

11:29:16 12 THE COURT: Sustained. Next question.

11:29:25 13 BY MR. MINGOLLA:

11:29:25 14 Q. You were -- isn't it fair to say you were extremely  
11:29:29 15 anxious that this meeting take place? Correct?

11:29:33 16 A. No.

11:29:40 17 Q. Had you been, had you been, had you been  
11:29:53 18 instructed -- excuse me.

11:29:54 19 Had you been instructed by Agent Querrard as to  
11:30:06 20 what you were to be asking my client?

11:30:10 21 A. Instructed?

11:30:13 22 Q. Suggestions made by Agent Querrard as to what you  
11:30:18 23 should be asking my client?

11:30:20 24 A. We discussed the proffer that I did. I don't  
11:30:27 25 know -- there were two different occasions, Attorney.

11:30:30 1 We discussed the --

11:30:32 2 Q. You've asked the question -- you've answered the

11:30:36 3 question.

11:30:42 4 So basically you were prompted -- Do you know what

11:30:45 5 I mean by "prompted"? You were coached by Agent

11:30:49 6 Querrard as to what you would be discussing, correct?

11:30:51 7 A. No.

11:30:52 8 Q. Or Agent Joseph?

11:30:53 9 A. I wasn't coached by anyone what I should be asking.

11:30:56 10 Q. But what --

11:30:57 11 A. No, I was not coached by anyone as to what I should

11:31:00 12 ask.

11:31:04 13 Q. So, are you to have us believe that you were just

11:31:09 14 told to go and meet with Mr. Hill and just have a

11:31:13 15 conversation?

11:31:14 16 A. No.

11:31:17 17 Q. So, somehow it was conveyed to you by someone as to

11:31:25 18 what types of questions you should be asking, correct?

11:31:29 19 A. Not what type of questions, no.

11:31:38 20 Q. And you never -- strike that.

11:31:53 21 It was not unusual for you and Mr. Hill, Walter

11:32:00 22 Hill, to discuss current events, correct, during the

11:32:06 23 course of your relationship?

11:32:07 24 A. No.

11:32:08 25 Q. And this case involving Mr. Tapia and the other

11:32:18 1 codefendants, that was a current event, correct?

11:32:26 2 A. Yes.

11:32:26 3 Q. And so it wasn't particularly unusual for, it  
11:32:45 4 wouldn't have been unusual for you and your cousin to  
11:32:53 5 discuss, you know, current events, one of which is the  
11:32:59 6 Tapia, I'll call it the Tapia case, or the Tapia arrest,  
11:33:05 7 correct?

11:33:06 8 A. Correct.

11:33:06 9 Q. And, and you testified that you never saw, because  
11:33:19 10 you drove away, you never saw, A, my client at this  
11:33:26 11 alleged exchange because it was too dark; and B, that  
11:33:39 12 you discussed current events frequently, and that you  
11:33:47 13 were seeking information from my client concerning the  
11:33:57 14 case and your own exposure in said case, in that case?

11:34:04 15 MS. LAKE: Objection. Asked and answered.

11:34:06 16 Compound.

11:34:07 17 THE COURT: Rephrase.

11:34:10 18 BY MR. MINGOLLA:

11:34:10 19 Q. Isn't it true that you got -- that you were  
11:34:13 20 interested on, on that, on that meeting that took place  
11:34:21 21 on October 20th, isn't it, isn't it true that you were  
11:34:24 22 interested in what my client might know about your  
11:34:31 23 exposure in that, you know, your, the weight of the  
11:34:38 24 evidence or your exposure in that case? Correct?

11:34:41 25 A. No.

11:34:52 1 Q. And the reason that -- well, strike that.

11:35:04 2 On, in the course of the -- this goes back a bit.

11:35:28 3 I neglected to -- would it surprise you that agents

11:35:34 4 reported that you had met with them more than the two

11:35:37 5 times that you're saying you met with them?

11:35:44 6 A. If it would surprise me, yes, because that's all I

11:35:47 7 recall meeting with them.

11:35:49 8 Q. So they're in essence lying when they --

11:35:51 9 THE COURT: No, stop. Next question.

11:35:54 10 MR. MINGOLLA: Okay. Sorry.

11:35:55 11 BY MR. MINGOLLA:

11:35:55 12 Q. And you -- so you never saw, just to wrap up this

11:36:10 13 aspect of things -- you never saw any transactions

11:36:16 14 between Mr. Tapia and Mr. Hill, correct?

11:36:20 15 A. Correct.

11:36:25 16 Q. And you said in this, on Exhibit 80b [sic], the

11:36:46 17 disk we just heard -- you say, you're referencing

11:37:44 18 someone called Fat Boy. I'm mistaken. You're

11:38:05 19 referencing someone else. It could be a chap named

11:38:17 20 Cranston. And you say -- strike that.

11:38:30 21 Mr. Hill says my -- Mr. Hill says: They're putting

11:38:36 22 it on me, you know. And why is Fat Boy calling them?

11:38:55 23 And you say: It got to be -- I understand what

11:38:58 24 you're saying. It got to be he trying to fuck you.

11:39:02 25 Do you remember that?

11:39:05 1 A. I remember -- I think that's the essence of that,  
11:39:11 2 yes.

11:39:11 3 Q. So by trying to -- the expression -- forgive me,  
11:39:15 4 jury for using the word -- so when you're talking about  
11:39:24 5 he trying to fuck you, doesn't that mean he's trying to  
11:39:30 6 frame you?

11:39:30 7 A. No.

11:39:39 8 Q. And did you, did you provide any assistance -- or  
11:40:10 9 isn't it true that you provided assistance to the  
11:40:17 10 government -- and I'll make that generic -- in terms of  
11:40:23 11 interpreting that -- the video we just saw?

11:40:27 12 A. Yes.

11:40:32 13 Q. And it would be in your best interest, would it  
11:40:39 14 not, logically, to interpret that video to make it  
11:40:42 15 reflect you in a good light, right?

11:40:47 16 A. No, to reflect the truth as to what happened.

11:40:50 17 Q. Because you have a conscience, as I recall you  
11:40:55 18 saying?

11:40:55 19 A. Just like you, yeah.

11:41:02 20 Q. I don't have a conscience.

11:41:05 21 THE COURT: All right. Let's just ask  
11:41:07 22 questions that are germane and move this along.

11:41:10 23 MR. MINGOLLA: Okay.

11:41:16 24 BY MR. MINGOLLA:

11:41:17 25 Q. Now, you, like Mr. Tapia, you executed -- strike

11:41:21 1 that.

11:41:21 2 It's true you entered into a -- you spoke with your  
11:41:26 3 attorney and sought his advice in this matter, correct?

11:41:29 4 MS. LAKE: Objection, relevance.

11:41:30 5 THE COURT: Overruled.

11:41:37 6 THE WITNESS: Yes.

11:41:38 7 BY MR. MINGOLLA:

11:41:38 8 Q. And you concluded that it was in your best interest  
11:41:44 9 to cooperate, correct?

11:41:45 10 A. Yes, that was my decision.

11:41:49 11 Q. And were -- and you were made aware that there  
11:41:59 12 were, that these were serious charges that you were  
11:42:03 13 facing, correct?

11:42:03 14 A. Correct.

11:42:04 15 Q. Very serious charges?

11:42:07 16 A. Yes.

11:42:08 17 Q. And a lot of them?

11:42:09 18 A. A lot of them?

11:42:10 19 Q. Uhm-hmm.

11:42:11 20 A. Yes.

11:42:14 21 Q. And so notwithstanding your conscience, which I  
11:42:22 22 don't doubt you have a conscience --

11:42:24 23 THE COURT: Stop the editorial, just ask the  
11:42:25 24 question.

11:42:26 25 MR. MINGOLLA: Sorry.

11:42:27 1 BY MR. MINGOLLA:

11:42:27 2 Q. You -- it was in your best interest, you felt, to  
11:42:36 3 cooperate in this investigation, correct?

11:42:38 4 MS. LAKE: Objection. Asked and answered.

11:42:40 5 THE COURT: Overruled.

11:42:43 6 THE WITNESS: Yes.

11:42:43 7 BY MR. MINGOLLA:

11:42:50 8 Q. And to that end you signed a plea agreement which  
11:42:56 9 the government has marked as Exhibit --

11:43:02 10 MR. MINGOLLA: Just a second, please.

11:43:02 11 BY MR. MINGOLLA:

11:43:12 12 Q. -- which the government has marked -- you signed a  
11:43:14 13 plea agreement on December the 16th of 2013, you signed  
11:43:22 14 a plea agreement, correct?

11:43:23 15 A. I don't remember the date, but yes, I signed a plea  
11:43:23 16 agreement.

11:43:26 17 Q. And that would be, for the record, Government's  
11:43:30 18 Exhibit 88a. And that agreement was signed by, to the  
11:43:45 19 best of your recollection, Mr. Lindquist, correct?

11:43:50 20 A. I think so, yes.

11:43:51 21 Q. And Prosecutor Lake, correct?

11:43:56 22 A. I don't remember all the signatures on it, but  
11:44:01 23 there was a few --

11:44:04 24 MS. LAKE: Objection. Relevance, Your Honor.

11:44:06 25 THE COURT: Overruled.

11:44:07 1 BY MR. MINGOLLA:

11:44:07 2 Q. And do you recall signing your own name to it?

11:44:11 3 A. Yes. I just said that.

11:44:15 4 Q. And do you remember your attorney signing it?

11:44:17 5 A. Yes.

11:44:24 6 Q. Okay. Now that was, as we've established -- or

11:44:28 7 maybe we haven't. That was on or about December 16th,

11:44:34 8 2013, correct?

11:44:34 9 A. I don't remember the date.

11:44:35 10 Q. Well, if I told you that it was December 16th,

11:44:39 11 would you disagree?

11:44:40 12 THE COURT: Let's move on. He says he doesn't

11:44:43 13 remember the date.

11:44:44 14 Next question.

11:44:49 15 BY MR. MINGOLLA:

11:44:50 16 Q. Now, curiously on the same day you signed another

11:44:58 17 plea agreement, did you not, which is Government's

11:45:03 18 Exhibit 88b. Do you recall signing it?

11:45:11 19 A. I don't recall the date. I saw the agreements,

11:45:15 20 yes, but I don't remember the dates.

11:45:17 21 Q. But you agree there was a second plea agreement?

11:45:19 22 A. I know there was a supplemental, yes.

11:45:23 23 Q. Uhm-hmm. And isn't it true that you signed this --

11:45:44 24 just a second.

11:45:46 25 Isn't it true that you signed this second plea

11:45:48 1 agreement because you were being pressured to implicate  
11:45:58 2 certain individuals which you had not implicated, and  
11:46:06 3 that unless you did implicate them, then the first plea  
11:46:12 4 bargain would be out the window and would no longer be  
11:46:17 5 relevant or no longer be employed or used, or whatever?  
11:46:26 6 A. No, not -- no.  
11:46:29 7 Q. Isn't it true that you signed the second agreement  
11:46:34 8 after it was pointed out to you that maybe you should  
11:46:37 9 refresh your memory a little bit and try and include  
11:46:43 10 other individuals in your -- in the -- to the  
11:46:51 11 investigators?  
11:46:52 12 A. No, Attorney.  
11:46:59 13 Q. You're a law enforcement officer, have been for a  
11:47:02 14 long time. I know you're not a lawyer, but you are  
11:47:04 15 familiar with plea agreements, right?  
11:47:09 16 A. I --  
11:47:09 17 Q. You know what a plea agreement is, obviously,  
11:47:13 18 right?  
11:47:13 19 A. Somewhat, yes.  
11:47:19 20 Q. And you're aware of the fact that it's rather  
11:47:22 21 unusual to sign two plea agreements on the same day, are  
11:47:26 22 you not?  
11:47:27 23 MS. LAKE: Objection. Relevance.  
11:47:28 24 THE COURT: Sustained.  
11:47:29 25 THE WITNESS: I --

11:47:30 1 THE COURT: Stop.

11:47:31 2 Next question.

11:47:39 3 BY MR. MINGOLLA:

11:47:39 4 Q. You were -- isn't it true that after you signed the

11:47:45 5 first one, the government was not happy with the

11:47:51 6 information that you were providing; and after you

11:48:00 7 agreed to provide information that they wanted, that's

11:48:05 8 when the supplemental agreement, plea agreement was

11:48:10 9 signed?

11:48:11 10 A. No.

11:48:14 11 Q. And was it suggested to you -- I'm not saying

11:48:19 12 guaranteed -- was it suggested to you by your attorney

11:48:32 13 that this would benefit you?

11:48:34 14 MS. LAKE: Objection, Your Honor.

11:48:35 15 THE COURT: Sustained.

11:48:36 16 BY MR. MINGOLLA:

11:48:37 17 Q. Was it suggested to you by the government or --

11:48:41 18 when I say "the government," I mean government agents or

11:48:45 19 members of the U.S. attorney's staff -- that by

11:48:53 20 cooperating you would receive benefits in terms of your

11:48:56 21 potential jail sentence?

11:48:59 22 A. Yes.

11:49:01 23 Q. So it wasn't just the fact that you have an acute

11:49:04 24 conscience. It was the fact that you were desperate to

11:49:08 25 get your jail sentence, your potential jail sentence

11:49:12 1 reduced by naming names?

11:49:20 2 A. It was a fact for both.

11:49:22 3 Q. I'm sorry?

11:49:23 4 A. Both situations.

11:49:26 5 Q. Okay. But you certainly didn't want to go to

11:49:30 6 prison, correct?

11:49:32 7 A. I know I was going to prison.

11:49:34 8 Q. But you would obviously, logically, would have

11:49:42 9 preferred it be less, lesser than greater?

11:49:45 10 A. Who wouldn't?

11:49:48 11 Q. That's right.

11:49:50 12 MS. LAKE: Objection. Argumentative, Your

11:49:53 13 Honor.

11:49:53 14 THE COURT: Overruled.

11:49:54 15 BY MR. MINGOLLA:

11:49:55 16 Q. And do you know who -- do you know who made the --

11:50:32 17 strike that.

11:51:00 18 MR. MINGOLLA: Just a minute, Judge, please?

11:51:02 19 THE COURT: Yes.

11:51:22 20 (Counsel conferring).

11:51:41 21 BY MR. MINGOLLA:

11:51:41 22 Q. I asked this yesterday of --

11:51:43 23 THE COURT: Just ask the question.

11:51:50 24 BY MR. MINGOLLA:

11:51:50 25 Q. -- Mr. Tapia, Agent Tapia -- or whatever his title,

11:51:56 1 Tapia -- policeman Tapia, DPNR Tapia --

11:52:07 2 THE COURT: Just ask the question, please.

11:52:09 3 BY MR. MINGOLLA:

11:52:10 4 Q. -- testified yesterday that he would basically turn

11:52:16 5 in anybody to get a reduced sentence. Isn't that the

11:52:21 6 same situation with you?

11:52:22 7 MS. LAKE: Objection. Relevance.

11:52:25 8 THE COURT: Overruled.

11:52:28 9 THE WITNESS: No.

11:52:34 10 BY MR. MINGOLLA:

11:52:34 11 Q. And that that is the reason that you would

11:52:43 12 implicate my client amongst -- I won't say many other

11:52:54 13 people -- you say around four, I believe -- and that is

11:53:03 14 why you would implicate, not just Walter, Walter Hill,

11:53:10 15 your benefactor, as well as other individuals, correct?

11:53:19 16 A. I don't understand the question.

11:53:25 17 Q. Well, it's pretty simple. Maybe I didn't phrase it

11:53:30 18 simply enough.

11:53:33 19 You would have turned anyone in, or implicated

11:53:38 20 anybody, to get a lesser sentence, correct?

11:53:44 21 A. No, Attorney. There is nobody in the process that

11:53:49 22 I didn't use in my proffer that -- it wasn't simple. I

11:53:53 23 did a proffer and proved my proffer. That's it.

11:53:55 24 Q. How many proffers did you make?

11:53:58 25 A. Two.

11:53:58 1 Q. I'm not sure the jury knows what a proffer is?

11:54:02 2 MS. LAKE: Objection. Argumentative, Your  
11:54:05 3 Honor.

11:54:05 4 THE COURT: It's not argumentative, but, no,  
11:54:09 5 ask your next question.

11:54:10 6 BY MR. MINGOLLA:

11:54:10 7 Q. What's a proffer?

11:54:11 8 A. It's -- my understanding is a meeting with the  
11:54:17 9 prosecutor and the investigating agents --

11:54:20 10 THE COURT: All right. Next question.

11:54:33 11 MR. MINGOLLA: I think that's about it, Judge.  
11:54:35 12 Just give me one second, please.

11:55:05 13 BY MR. MINGOLLA:

11:55:05 14 Q. Isn't it true that you were just as interested as  
11:55:12 15 to what the government might have on you that you would,  
11:55:27 16 you would question my client, your good friend, as to  
11:55:32 17 what he had heard about, you know, on the street, let's  
11:55:36 18 say, about your situation?

11:55:43 19 A. Then I wouldn't need a wire.

11:55:50 20 Q. But you still wanted to know what he heard?

11:55:55 21 A. No.

11:56:02 22 Q. Are you trying to tell us that you didn't ask him  
11:56:05 23 anything about what he heard concerning your situation?

11:56:08 24 A. When?

11:56:09 25 Q. On these disks? In that conversation?

11:56:14 1 A. All the disks reflected is what I said in my  
11:56:18 2 proffer, nothing else.

11:56:28 3 MR. MINGOLLA: Okay. Thank you. No more  
11:56:29 4 questions.

11:56:30 5 THE COURT: Thank you, Attorney Mingolla.  
11:56:33 6 Attorney Watlington.

11:56:36 7 MR. WATLINGTON: Yes, Your Honor. I think if I  
11:56:39 8 ask him questions, it would not be --

11:56:42 9 THE COURT: Do you have any questions?

11:56:44 10 MR. WATLINGTON: I think I have two or three.

11:56:49 11 THE COURT: All right. Come to sidebar.

11:56:57 12 (Sidebar discussion held as follows:)

11:57:01 13 MR. WATLINGTON: Let me say, let me say --

11:57:03 14 THE COURT: Do you have a question?

11:57:04 15 MR. WATLINGTON: Yes, yes.

11:57:05 16 THE COURT: This is evidence that doesn't  
11:57:06 17 pertain to your client.

11:57:07 18 MR. WATLINGTON: Yes, what -- ready for me,  
11:57:12 19 Judge?

11:57:13 20 THE COURT: Yes, go ahead.

11:57:16 21 MR. WATLINGTON: I believe Joey and John is  
11:57:19 22 John Lynch, Jr. I want to ask him if he knows about,  
11:57:24 23 that John Lynch, Jr., and Tapia were drug dealing  
11:57:29 24 associates.

11:57:30 25 THE COURT: No, I don't think I allowed --

11:57:32 1 why --

11:57:34 2 MR. WATLINGTON: Because Tapia said he

11:57:35 3 doesn't -- that's not so. And I believe if this witness

11:57:39 4 can implicate --

11:57:40 5 THE COURT: Whether he knows if they were drug

11:57:42 6 dealers? No, that's not conclusive -- no, I'm not going

11:57:46 7 to allow that.

11:57:47 8 MR. WATLINGTON: I would just like to have my

11:57:49 9 objection noted for the record.

11:57:50 10 THE COURT: That was your one question?

11:57:52 11 MR. WATLINGTON: That's the nature of my

11:57:54 12 question.

11:57:54 13 THE COURT: Whether he knows John Lynch is a

11:57:57 14 drug dealer?

11:57:57 15 MR. WATLINGTON: No, no, no. Whether he knows

11:57:59 16 if John Lynch and Tapia were associates in drug dealing.

11:58:04 17 Tapia said, no, he was not, his point of impact [sic]

11:58:07 18 when I asked him on direct examination. I believe

11:58:11 19 that's a lie. And in fact, I wanted to find out if he

11:58:15 20 knows. And if anybody knows, he knows.

11:58:17 21 THE COURT: And how would this person know?

11:58:21 22 MR. WATLINGTON: From his associations from

11:58:24 23 Tapia and his conversations with Tapia.

11:58:26 24 THE COURT: So he would know it by hearsay.

11:58:29 25 MR. WATLINGTON: Maybe, but that's impeaching a

11:58:31 1 witness who specifically says no. And he is telling  
11:58:34 2 it -- he is saying that that same witness --

11:58:37 3 THE COURT: It's still not clear how the answer  
11:58:39 4 would avoid any hearsay problems.

11:58:41 5 MR. WATLINGTON: Well, it goes --

11:58:42 6 THE COURT: It is not a statement in  
11:58:43 7 furtherance of a conspiracy, so it's not non-hearsay.

11:58:46 8 It is not an admission of a party opponent, so it's not  
11:58:49 9 non-hearsay. So tell me how it's not hearsay.

11:58:55 10 MR. WATLINGTON: Because, in fact, Tapia said  
11:58:57 11 he is not a point of impact -- a point of contact. And  
11:59:00 12 if he knows he was Tapia's point of contact, just like  
11:59:02 13 he knows Hill was, Walter Hill was a person of contact,  
11:59:10 14 then it would, in fact, in fact impeach Tapia.

11:59:13 15 THE COURT: All right. Well, I think I  
11:59:14 16 understand your position. I'm not persuaded by it,  
11:59:18 17 though --

11:59:18 18 MR. WATLINGTON: Okay.

11:59:19 19 THE COURT: -- for several reasons,  
11:59:23 20 significantly 403.

11:59:27 21 MR. WATLINGTON: Okay. Thank you.

11:59:28 22 THE COURT: Is that the only question?

11:59:29 23 MR. WATLINGTON: That was the only question.

11:59:31 24 THE COURT: Okay.

11:59:32 25 MR. MINGOLLA: Judge, I have something I must

11:59:34 1 simply point out, and I'll be quick.

11:59:36 2 THE COURT: Lunch is going to be here. So  
11:59:39 3 you've rest- -- you've passed the witness, and then  
11:59:42 4 we'll get to your issue.

11:59:46 5 MS. LAKE: And then we have stipulations after  
11:59:48 6 this.

11:59:48 7 THE COURT: We'll get there.

11:59:48 8 (End of sidebar, open court as follows:)

11:59:50 9 THE COURT: All right. Attorney Watlington, no  
11:59:52 10 questions other than the matter we discussed at sidebar?

11:59:55 11 MR. WATLINGTON: No questions other than we  
11:59:57 12 discussed at sidebar, Judge.

11:59:58 13 THE COURT: Very good. All right. Any  
12:00:00 14 redirect?

12:00:06 15 MS. LAKE: Yes, Your Honor.

12:00:07 16 THE COURT: All right.

12:00:07 17 REDIRECT EXAMINATION

12:00:07 18 BY MS. LAKE:

12:00:08 19 Q. Just very briefly, Mr. Hill, do you recall Attorney  
12:00:10 20 Mingolla asking you regarding you borrowing money from  
12:00:15 21 Walter Hill?

12:00:17 22 A. Yes.

12:00:17 23 BY MS. LAKE:

12:00:17 24 Q. Can you please describe the circumstances of you  
12:00:20 25 borrowing money from Walter Hill?

12:00:24 1 MR. MINGOLLA: I object, Your Honor.

12:00:27 2 THE COURT: Okay. Overruled.

12:00:30 3 THE WITNESS: I had some financial difficulties

12:00:33 4 and I asked him to borrow some money, and he did.

12:00:35 5 BY MS. LAKE:

12:00:35 6 Q. And what happened next?

12:00:38 7 A. I owed him the money, and during discussions he

12:00:45 8 would, you know, talk about --

12:00:46 9 THE COURT: All right. Let's move on. Next

12:00:48 10 question.

12:00:49 11 BY MS. LAKE:

12:00:49 12 Q. What, if any, were the circumstances of you paying

12:00:51 13 Mr. Walter Hill back?

12:00:54 14 MR. MINGOLLA: Again objection, Your Honor.

12:00:57 15 Relevance.

12:00:57 16 THE COURT: Overruled.

12:01:01 17 THE WITNESS: Mr. Tapia would take him to

12:01:06 18 Puerto Rico with cocaine.

12:01:07 19 BY MS. LAKE:

12:01:08 20 Q. And what was the result of that?

12:01:11 21 A. He did that, and he said that we were okay.

12:01:14 22 Q. What does that mean?

12:01:15 23 A. I didn't owe him any money.

12:01:22 24 Q. And why would you not owe Walter Hill any money as

12:01:26 25 a result of that?

12:01:28 1 MR. MINGOLLA: Calls for speculation, Your  
12:01:29 2 Honor. Objection.

12:01:30 3 THE COURT: All right. Sustained.

12:01:32 4 BY MS. LAKE:

12:01:32 5 Q. Do you recall Attorney Mingolla asking you a  
12:01:38 6 question regarding a statement on the recording?

12:01:42 7 Government's 86c-1, quote -- or paraphrasing, Fat Boy  
12:01:48 8 trying to F you up. Do you recall those questions?

12:01:52 9 A. Yes.

12:01:52 10 Q. And do you recall Attorney Mingolla asking you what  
12:01:55 11 that meant?

12:01:56 12 A. Yes.

12:01:57 13 Q. What does that statement mean? And as I  
12:02:01 14 paraphrase, Fat Boy trying to F you up, what does that  
12:02:05 15 statement mean?

12:02:08 16 MR. MINGOLLA: Objection, Your Honor. Calls  
12:02:10 17 for speculation.

12:02:11 18 THE COURT: All right. Who is the person --  
12:02:15 19 it's not clear who uttered it. Are you asking what he  
12:02:18 20 understands it or what he said? It hasn't been  
12:02:20 21 established who said the words, and whether it's an  
12:02:22 22 understanding or whether it's his intention to convey  
12:02:25 23 some message -- whether the witness' intention to convey  
12:02:28 24 some message.

12:02:29 25

12:02:29 1 BY MS. LAKE:

12:02:29 2 Q. Who made that statement?

12:02:32 3 A. I think I made that statement.

12:02:33 4 Q. And what did you -- what did you mean when you made

12:02:38 5 the statement, Fat Boy trying to F you up?

12:02:44 6 A. Walter had informed me Fat Boy, somebody referred

12:02:49 7 to as his supplier, and that the seven kilos that he had

12:02:56 8 sold to Tapia needed to be replaced for the buyer in

12:03:00 9 Puerto Rico. And there was some sort of dispute or

12:03:04 10 misunderstanding, because he was short in giving the

12:03:11 11 buyer in Puerto Rico the seven --

12:03:14 12 MR. MINGOLLA: I'm going to object on all of

12:03:15 13 this, Your Honor, as speculation.

12:03:17 14 THE COURT: All right. Overruled.

12:03:19 15 BY MS. LAKE:

12:03:19 16 Q. And what else did Walter Hill say to you?

12:03:23 17 A. I can't remember exactly all the recording, but he

12:03:27 18 was short --

12:03:28 19 THE COURT: All right. You don't have to

12:03:29 20 repeat the recording.

12:03:30 21 Next question.

12:03:31 22 BY MS. LAKE:

12:03:31 23 Q. And again -- and following up and finishing your

12:03:35 24 answer, what did you mean when you said Fat Boy trying

12:03:39 25 to F you up?

12:03:41 1 MR. MINGOLLA: Your Honor, asked and answered.

12:03:42 2 Objection.

12:03:44 3 THE COURT: All right. I think we've covered

12:03:47 4 this ground.

12:03:51 5 Do you have anything to add, Mr. Hill?

12:03:53 6 BY MS. LAKE:

12:03:54 7 Q. Is there any --

12:03:55 8 THE COURT: Let him answer my question.

12:03:57 9 Do you have anything to add to that question -- to

12:03:59 10 your answer to that question?

12:04:00 11 THE WITNESS: Not really, Your Honor, just --

12:04:02 12 THE COURT: All right. Next question.

12:04:07 13 MS. LAKE: Thank you. Nothing further.

12:04:09 14 THE COURT: All right. Mr. Hill. Thank you

12:04:11 15 for your testimony.

12:04:11 16 (Witness withdrew from stand.)

12:04:16 17 THE COURT: Next witness.

12:04:19 18 MS. LAKE: Your Honor, I would ask that

12:04:20 19 Mr. Hill be excused.

12:04:21 20 THE COURT: Is there any need for Mr. Hill?

12:04:23 21 MR. MINGOLLA: I would object to that. I would

12:04:25 22 like Mr. Hill --

12:04:26 23 THE COURT: All right. He's not excused.

12:04:28 24 MR. MINGOLLA: I'm sorry?

12:04:29 25 THE COURT: He is not excused.

12:04:30 1 MR. MINGOLLA: Thank you.

12:04:31 2 THE COURT: You can leave.

12:04:36 3 MS. LAKE: The government calls Fred Ott.

12:04:41 4 THE COURT: All right.

12:04:59 5 Let me see counsel while we're waiting for Mr. Ott.

12:05:02 6 Come to sidebar.

12:05:05 7 (Sidebar discussion held as follows:)

12:05:05 8 THE COURT: Is Mr. Ott someone whose testimony

12:05:10 9 is related to Mr. Hill only?

12:05:14 10 MR. WATLINGTON: Yes.

12:05:15 11 MS. LAKE: Yes, just the drugs, yes.

12:05:18 12 THE COURT: He is the person who -- Attorney

12:05:22 13 Mingolla, you're on the record. If I'm talking, try not

12:05:28 14 to.

12:05:28 15 MR. MINGOLLA: I'm sorry, sir, I'm trying to --

12:05:30 16 THE COURT: Well, let me finish. Mr. Ott is

12:05:32 17 the person who received the contraband from --

12:05:36 18 MR. MINGOLLA: Oh, that's right.

12:05:37 19 THE COURT: Again, Attorney Mingolla, you've

12:05:39 20 got to try to refrain from --

12:05:41 21 MR. MINGOLLA: I'll shut up.

12:05:43 22 THE COURT: All right. There is some testimony

12:05:46 23 on the record from Mark Joseph, I believe, and I believe

12:05:49 24 he turned the contraband over to Mr. Ott. Is that

12:05:52 25 correct?

12:05:54 1 MS. LAKE: Yes.

12:05:55 2 THE COURT: All right. Very good. This should

12:05:56 3 be a short witness.

12:05:57 4 MS. LAKE: Very short, Your Honor.

12:05:58 5 And if I can just say, the stipulation will

12:06:01 6 alleviate the need for any further witnesses in this

12:06:04 7 regard. So it will just --

12:06:07 8 THE COURT: So after Mr. Ott, do you want to

12:06:10 9 place a stipulation on the record?

12:06:12 10 MS. LAKE: Please.

12:06:12 11 THE COURT: Does that relate to Attorney

12:06:16 12 Watlington's client?

12:06:17 13 MR. WATLINGTON: No, but I've signed it anyway.

12:06:19 14 THE COURT: All right. And then any other

12:06:20 15 witnesses after that?

12:06:22 16 MS. LAKE: One final witness.

12:06:23 17 THE COURT: What is that witness?

12:06:25 18 MS. LAKE: Agent Grossman, just regarding a

12:06:28 19 toll analysis. The stipulation --

12:06:32 20 THE COURT: Does that -- who does that apply

12:06:34 21 to? Both defendants?

12:06:40 22 MS. LAKE: No, just Walter Hill.

12:06:41 23 THE COURT: Okay. Is there any more

12:06:43 24 information with respect to Attorney Watlington's

12:06:46 25 client?

12:06:46 1 MS. LAKE: Not really, even though

12:06:49 2 Mr. Watlington did sign the stipulation to the drugs and

12:06:52 3 custodian of records.

12:06:54 4 THE COURT: I want to know if I need to bring

12:06:55 5 in his jury now. Is there anything that applies to --

12:06:59 6 MR. WATLINGTON: I don't think so.

12:07:00 7 THE COURT: Ott is going to testify about drugs

12:07:02 8 that were received, which is not the case with respect

12:07:03 9 to Mr. Brown. The chemist is going to speak about the

12:07:05 10 test of those drugs, which do not apply -- append to

12:07:10 11 Mr. Brown. And you have phone records. Do those relate

12:07:15 12 to anything with Mr. Brown?

12:07:17 13 MS. LAKE: No, Your Honor.

12:07:17 14 THE COURT: Okay. And that's your last

12:07:18 15 witness?

12:07:19 16 MS. LAKE: Yes. And the stipulation also is

12:07:22 17 custodian of records to the phone records, and that

12:07:25 18 again, to answer your question, does not relate to

12:07:27 19 Mr. Brown.

12:07:27 20 THE COURT: Okay. All right.

12:07:29 21 So when the government rests, it would rest as to

12:07:31 22 all defendants then?

12:07:32 23 MS. LAKE: Yes, Your Honor.

12:07:33 24 THE COURT: All right. So we'll try to get

12:07:34 25 that testimony on very quickly, and then we will bring

12:07:37 1 the Panel A in. You can rest in front of the jury.

12:07:43 2 I'll let them know what it means. I'll hear you, send

12:07:45 3 them off to lunch, and then we'll resume.

12:07:49 4 MR. WATLINGTON: Your Honor, is it all right

12:07:50 5 for me to step out into the bathroom while he's

12:07:53 6 testifying now?

12:07:54 7 THE COURT: Well, why don't you step out now.

12:07:56 8 I don't like you to miss any of this.

12:07:59 9 MR. WATLINGTON: Okay. I don't -- because it's

12:08:01 10 not applicable to me at all.

12:08:02 11 THE COURT: Notwithstanding, when you heard the

12:08:04 12 testimony of Mr. Hill you were thinking there were some

12:08:08 13 questions that you might want to ask.

12:08:10 14 MR. WATLINGTON: Yes.

12:08:11 15 THE COURT: So I don't want to promise your

12:08:14 16 client --

12:08:15 17 MR. WATLINGTON: But this is just chain of

12:08:17 18 custody for the clients that are in fact -- only for the

12:08:21 19 Hills --

12:08:21 20 THE COURT: Why don't you do this. You can

12:08:24 21 step out during the stipulation -- well, actually, no, I

12:08:26 22 need you for the stipulation. Why don't you --

12:08:29 23 MR. WATLINGTON: I just don't want to hold up

12:08:33 24 everything --

12:08:33 25 THE COURT: Can you hold off for a few minutes?

12:08:36 1 MR. WATLINGTON: Yes. No problem, Judge.

12:08:44 2 (End of sidebar, open court as follows:)

12:08:45 3 THE COURT: All right.

12:08:52 4 THE CLERK: Please step into the witness box.

12:08:57 5 (Witness sworn.)

12:08:58 6 THE WITNESS: I do.

12:08:58 7 THEREUPON, FRED OTT, having been duly sworn,

12:09:00 8 was examined and testified as follows:

12:09:00 9 DIRECT EXAMINATION

12:09:01 10 BY MS. LAKE:

12:09:07 11 Q. Good morning, Mr. Ott.

12:09:08 12 A. Good morning.

12:09:10 13 Q. Who do you work for?

12:09:11 14 A. The Drug Enforcement Administration.

12:09:13 15 Q. And --

12:09:15 16 THE COURT: Do you want to ask the witness his

12:09:17 17 name?

12:09:17 18 MS. LAKE: I apologize.

12:09:18 19 BY MS. LAKE:

12:09:19 20 Q. Please state your name for the record.

12:09:20 21 A. My name is Fred Ott, O-t-t.

12:09:25 22 Q. And Fred is common?

12:09:26 23 A. It is.

12:09:27 24 Q. Who do you work for?

12:09:28 25 A. I work for the Drug Enforcement Administration or

12:09:30 1 DEA.

12:09:30 2 Q. And where are you assigned?

12:09:33 3 A. Right now I'm assigned to the Mobile, Alabama,

12:09:36 4 resident office.

12:09:36 5 Q. And before that where were you assigned?

12:09:38 6 A. I was assigned to the St. Thomas resident office

12:09:40 7 from June of 2010 to June of 2013.

12:09:43 8 Q. And how long have you been, have you worked for law

12:09:46 9 enforcement?

12:09:46 10 A. I've been in law enforcement for 20 years.

12:09:49 11 Q. And are you a special agent?

12:09:53 12 A. I am.

12:09:53 13 Q. And Agent Ott, what is your, if any, was your

12:09:56 14 involvement in the Roberto Tapia investigation?

12:09:59 15 A. I was involved with some surveillances and arrests,

12:10:03 16 but also as the drug evidence custodian and non-drug

12:10:07 17 evidence custodian.

12:10:08 18 Q. And what, if -- directing your attention to

12:10:12 19 May 17th, 2013, what, if any, involvement did you have

12:10:17 20 regarding items that were seized on May 17th, 2013?

12:10:21 21 A. I placed some drug and non-drug evidence that were

12:10:26 22 seized on May 17th, placed them into evidence.

12:10:29 23 Q. And directing your attention to what's been

12:10:32 24 received into evidence as Government's Exhibit 80h, as

12:10:36 25 in Harry, do you see this on the screen in front of you?

12:10:40 1 A. I do.

12:10:41 2 MS. LAKE: And this has been received into

12:10:43 3 evidence, Your Honor. I ask that it be published to the

12:10:48 4 jury.

12:10:48 5 BY MS. LAKE:

12:10:52 6 Q. What is Government's Exhibit 80h?

12:10:53 7 A. It is seven kilograms of cocaine and a green and

12:10:57 8 black backpack that were seized from Mr. Tapia on the

12:11:02 9 17th.

12:11:03 10 Q. What, if anything, did you do with these items?

12:11:05 11 A. These items were later turned over to me as the

12:11:08 12 drug evidence custodian. I kept them in the vault in

12:11:10 13 the St. Thomas office, and later mailed them out to our

12:11:13 14 lab.

12:11:14 15 Q. And showing you what's been marked as --

12:11:21 16 THE COURT: Why don't you take the box up to

12:11:23 17 the witness stand, leave it there and then examine from

12:11:26 18 the lectern.

12:11:28 19 MS. LAKE: May I approach?

12:11:29 20 THE COURT: Yes.

12:11:33 21 Agent Ott, you can place the box down.

12:11:36 22 THE WITNESS: Down. Yes, sir. Like down on

12:11:39 23 the floor?

12:11:40 24 THE COURT: Yes.

12:11:42 25 THE WITNESS: Okay.

12:11:42 1 THE COURT: Go ahead.

12:11:42 2 (Government's Exhibit 80a marked for

12:11:43 3 identification.)

12:11:43 4 BY MS. LAKE:

12:11:43 5 Q. What is Government's Exhibit 80a?

12:11:48 6 A. 80a is the box that I have here, right?

12:11:51 7 Q. Do you see something on top of the box, in terms of

12:11:54 8 sticker?

12:11:54 9 A. Yes. I'm sorry, I see it. This is the box that

12:11:58 10 the cocaine was mailed to our lab in.

12:12:01 11 Q. And what's the relationship between Government's

12:12:04 12 Exhibit 80a and the photograph you just viewed,

12:12:07 13 Government's Exhibit 80h?

12:12:08 14 A. The cocaine itself was placed into this box and

12:12:11 15 mailed to our lab.

12:12:12 16 Q. And how do you know that?

12:12:14 17 A. Because I mailed them.

12:12:15 18 Q. And are any initials on that box?

12:12:17 19 A. There are. Mine.

12:12:21 20 Q. And so that's the same?

12:12:24 21 A. Yes.

12:12:24 22 MS. LAKE: And thank you. I have nothing

12:12:25 23 further, Your Honor.

12:12:26 24 THE COURT: Were you going to inquire about the

12:12:27 25 contents of the box?

12:12:28 1 BY MS. LAKE:

12:12:28 2 Q. What are the contents of the box, Agent Ott?

12:12:30 3 A. The contents of the box were the seven kilograms of

12:12:33 4 cocaine that were seized from Mr. Tapia; not the

12:12:36 5 backpack, but the cocaine.

12:12:38 6 MS. LAKE: And may I open -- may I ask Agent

12:12:42 7 Ott to open it for the jury?

12:12:43 8 THE COURT: Yes, go ahead.

12:12:45 9 BY MS. LAKE:

12:12:45 10 Q. Agent Ott, is there a way for you to open the box?

12:12:48 11 A. I'm going to need like a knife or something to cut

12:12:52 12 the tape.

12:12:53 13 MS. LAKE: May I have a moment, Your Honor?

12:12:55 14 MR. MINGOLLA: Do you have a key --

12:12:56 15 THE COURT: Attorney Mingolla, you'll have a

12:12:59 16 chance to examine the witness, so please be quiet. You

12:13:13 17 can examine the witness.

12:13:15 18 Ms. Brann, can you give him the scissors?

12:13:17 19 THE WITNESS: Thank you.

12:13:18 20 BY MS. LAKE:

12:13:18 21 Q. Agent Ott, can you please describe for the record

12:13:20 22 what you are doing?

12:13:21 23 A. Okay. I'm actually -- we seize these -- when we

12:13:25 24 submit the boxes we put tape around the box, so we can

12:13:29 25 realize if it's been tampered with or not. So I'm

12:13:36 1 having to cut the seal.

12:13:38 2 Q. Please do that.

12:13:39 3 A. Okay.

12:14:05 4 Okay. It's opened.

12:14:06 5 Q. What are the contents of Government's Exhibit 80a?

12:14:10 6 A. The contents are three self-sealing evidence

12:14:16 7 envelopes.

12:14:16 8 Q. And what do those three envelopes contain?

12:14:20 9 A. They contain kilograms of cocaine, opened.

12:14:25 10 Q. And what are they? How -- what exactly are they?

12:14:29 11 A. It's the -- these are the seven kilograms of

12:14:39 12 cocaine that were seized from Mr. Tapia.

12:14:41 13 MS. LAKE: Your Honor, I would ask that

12:14:43 14 Government's Exhibit 80a be published to the jury.

12:14:45 15 THE COURT: Do you want to move it into

12:14:46 16 evidence first?

12:14:47 17 MS. LAKE: I ask that Government's Exhibit 80a

12:14:50 18 be received into evidence.

12:14:51 19 THE COURT: Attorney Mingolla?

12:14:54 20 MR. MINGOLLA: No objection. No objection.

12:14:58 21 THE COURT: Attorney Watlington.

12:14:59 22 MR. WATLINGTON: No objection, Your Honor.

12:15:00 23 THE COURT: It's 80a, like apple?

12:15:04 24 MS. LAKE: A like apple, yes, Your Honor.

12:15:07 25 THE COURT: 80a, apple, is admitted.

12:15:10 1 (Government's Exhibit 80a admitted into evidence.)

12:15:10 2 MS. LAKE: I would ask this be published to the

12:15:12 3 jury.

12:15:12 4 THE COURT: Yes.

12:15:14 5 BY MS. LAKE:

12:15:15 6 Q. Agent Ott --

12:15:16 7 THE COURT: You can place it on the table now,

12:15:18 8 Agent Ott. You can show it to the jury. Put the box

12:15:43 9 down --

12:15:43 10 MR. MINGOLLA: Your Honor, the --

12:15:44 11 THE COURT: Agent Ott, you can put the box

12:15:46 12 down.

12:15:46 13 THE WITNESS: Put the box down?

12:15:50 14 MR. MINGOLLA: Your Honor, could the defense

12:15:51 15 have a glance at that, as well as the jury?

12:15:54 16 THE COURT: All right.

12:15:55 17 Any questions, Attorney Lake?

12:15:56 18 MS. LAKE: No further questions, Your Honor.

12:15:58 19 Thank you.

12:15:58 20 THE COURT: All right. Attorney Mingolla?

12:15:58 21 MR. MINGOLLA: Just a couple questions.

12:16:06 22 First off, may I approach and just see what this

12:16:11 23 is?

12:16:11 24 THE COURT: You wish to retrieve the exhibits

12:16:14 25 for examination?

12:16:15 1 MR. MINGOLLA: Can I look at it right up there?

12:16:17 2 I don't have to take it back to the table there.

12:16:19 3 THE COURT: Why don't you start your

12:16:21 4 examination, and then we'll get it --

12:16:21 5 MR. MINGOLLA: All right.

12:16:21 6 CROSS-EXAMINATION

12:16:21 7 BY MR. MINGOLLA:

12:16:27 8 Q. Agent Ott, where is the lab?

12:16:28 9 A. It's in Miami, Florida.

12:16:31 10 Q. And isn't it true that these exhibits got sent to

12:16:36 11 Wyoming first, and then ended up in Miami, Florida?

12:16:39 12 A. I don't believe they were.

12:16:43 13 Q. And you're telling us that these are the exact

12:16:52 14 kilos of cocaine that were picked up in this

12:16:56 15 investigation?

12:16:57 16 A. They're the unwrapped kilos.

12:17:02 17 Q. These are the wrapping?

12:17:03 18 A. Yes.

12:17:03 19 MR. MINGOLLA: Again, Your Honor, can I just --

12:17:05 20 that's the questions. But I would like to --

12:17:09 21 THE COURT: All right. I would -- yes, you can

12:17:11 22 put them in the box, Agent Ott.

12:17:13 23 You can take the box and take it with you, Attorney

12:17:16 24 Mingolla.

12:17:17 25 Put the exhibits into the box.

12:17:18 1 And Attorney Mingolla, you can approach, retrieve  
12:17:21 2 the box if you wish to.

12:17:26 3 MR. MINGOLLA: Thank you, Judge.

12:17:35 4 THE COURT: Attorney Mingolla, you can take the  
12:17:37 5 box and go back to the lectern.

12:17:39 6 MR. MINGOLLA: Oh, I'm sorry.

12:18:05 7 (Pause)

12:18:15 8 MR. MINGOLLA: Is there any reason -- may I  
12:18:18 9 place this over here?

12:18:20 10 THE COURT: You put it on the floor by the  
12:18:21 11 lectern, so you can use it if you need to during your  
12:18:24 12 examination.

12:18:24 13 MR. MINGOLLA: I don't really need to use it  
12:18:26 14 during my exam. I just have one question.

12:18:26 15 BY MR. MINGOLLA:

12:18:29 16 Q. This is not the form in which -- let me rephrase.

12:18:33 17 You say you unwrapped them?

12:18:35 18 A. The lab unwrapped them.

12:18:37 19 Q. Okay. And what I'm seeing here is just bits and  
12:18:45 20 pieces of things, which I've stipulated that the  
12:18:49 21 chemist -- we've stipulated --

12:18:51 22 THE COURT: All right. Let's -- just ask the  
12:18:57 23 question.

12:18:57 24 BY MR. MINGOLLA:

12:18:59 25 Q. Why aren't these in brick form? Why are they all

12:19:04 1 broken up into shards?

12:19:06 2 A. They're still in brick form. Some are broken, I

12:19:09 3 assume after analysis.

12:19:12 4 Q. And how long did it take to have that analysis

12:19:14 5 done?

12:19:14 6 A. I don't know.

12:19:17 7 Q. And is this the same lab that you always use?

12:19:20 8 A. It is.

12:19:21 9 Q. In Miami?

12:19:22 10 A. It is.

12:19:23 11 Q. And forgive me, but whose lab is it?

12:19:26 12 A. It's the DEA lab.

12:19:29 13 MR. MINGOLLA: Okay. Okay. No further

12:19:31 14 questions, Judge.

12:19:32 15 THE COURT: Agent Ott, thank you -- I'm sorry.

12:19:36 16 Any questions, Attorney Watlington?

12:19:37 17 MR. WATLINGTON: No, Your Honor.

12:19:38 18 THE COURT: Any redirect?

12:19:39 19 MS. LAKE: No, Your Honor.

12:19:40 20 THE COURT: Agent Ott, thank you for your

12:19:41 21 testimony.

12:19:41 22 You may step down.

12:19:42 23 THE WITNESS: Thank you, sir. Am I dismissed?

12:19:44 24 THE COURT: Is there any need for Agent Ott?

12:19:46 25 MS. LAKE: No, Your Honor. I ask that he be

12:19:47 1 excused.

12:19:48 2 MR. MINGOLLA: No objection, Judge.

12:19:50 3 THE COURT: Attorney Watlington, any further

12:19:52 4 need for Agent Ott?

12:19:54 5 MR. WATLINGTON: No, Your Honor.

12:19:55 6 THE COURT: You're excused.

12:19:55 7 (Witness withdrew from stand.)

12:19:57 8 THE COURT: Next witness.

12:19:58 9 MS. LAKE: Your Honor, we have a stipulation.

12:20:05 10 THE COURT: All right. You can place it on the

12:20:10 11 record.

12:20:11 12 MS. LAKE: Thank you, Your Honor.

12:20:13 13 All parties have stipulated that DEA Forensic

12:20:18 14 Chemist Carolyn Hudson received and analyzed

12:20:20 15 Government's Exhibit 80a, and determined it to be

12:20:23 16 cocaine hydrochloride weighing 7,003 grams.

12:20:26 17 Next, all parties --

12:20:28 18 THE COURT: Hold on. That's one stipulation.

12:20:32 19 All right. Is that your understanding of the

12:20:34 20 stipulation, Attorney Mingolla?

12:20:36 21 MR. MINGOLLA: Sir?

12:20:37 22 THE COURT: Is that your --

12:20:38 23 MR. MINGOLLA: No, I don't object to that

12:20:40 24 stipulation.

12:20:40 25 THE COURT: All right. Attorney Watlington, is

12:20:42 1 that your understanding?

12:20:42 2 MR. WATLINGTON: Yes, Your Honor.

12:20:43 3 THE COURT: All right. Ladies and gentlemen, a  
12:20:46 4 stipulation is an agreement between two parties in a  
12:20:49 5 case, or parties to a case. In this case there is a  
12:20:52 6 stipulation among and between the parties to a fact.  
12:20:56 7 And the fact that they have stipulated to or agreed to  
12:21:00 8 is that the substance that is Exhibit 80a is cocaine  
12:21:08 9 hydrochloride. They've also stipulated to the weight of  
12:21:11 10 that, that it's in excess of 7,000 grams or in excess of  
12:21:17 11 7 kilos.

12:21:17 12 All right. Is there another stipulation?

12:21:20 13 MS. LAKE: Yes, Your Honor.

12:21:20 14 (Government's Exhibits 85a, 85b, 85c marked for  
12:21:20 15 identification.)

12:21:21 16 MS. LAKE: All parties stipulate that the  
12:21:24 17 documents contained in Government's Exhibits 85a, 85b  
12:21:32 18 and 85c, telephone records, are true and accurate  
12:21:35 19 records made at or near the time of the occurrence set  
12:21:39 20 forth by a person with knowledge, were made and kept by  
12:21:42 21 the company in the regular course of company business  
12:21:46 22 activity, and it was a regular practice of the company  
12:21:49 23 to make and keep such documents.

12:21:51 24 THE COURT: That's 85a, b and c?

12:21:56 25 MS. LAKE: Yes, Your Honor.

12:21:59 1 THE COURT: That's a stipulation to

12:22:00 2 authenticity. What about the relevance?

12:22:05 3 MS. LAKE: That will be the next witness, Your

12:22:08 4 Honor.

12:22:08 5 THE COURT: All right. So it's just

12:22:09 6 authenticity. All right.

12:22:10 7 Same instruction with respect to the stipulation.

12:22:15 8 There's a stipulation to Exhibits 85a, 85b and 85c, with

12:22:21 9 respect to those terms that were outlined by the

12:22:23 10 government.

12:22:23 11 Is there any objection to that, Attorney Mingolla?

12:22:27 12 MR. MINGOLLA: No, sir.

12:22:28 13 THE COURT: Attorney Watlington?

12:22:29 14 MR. WATLINGTON: No, Your Honor.

12:22:30 15 THE COURT: All right. Next witness.

12:22:33 16 MS. LAKE: The government calls agent Michael

12:22:35 17 Grossman.

12:23:30 18 THE CLERK: Please step into the witness box.

12:23:37 19 Please stand and raise your right hand to take the

12:23:40 20 oath.

12:23:43 21 (Witness sworn.)

12:23:44 22 THE WITNESS: I do.

12:23:44 23

12:23:44 24

12:23:46 25

12:23:46 1 THEREUPON, MICHAEL GROSSMAN, having been duly  
12:23:47 2 sworn, was examined and testified as follows:  
12:23:47 3 DIRECT EXAMINATION  
12:23:48 4 BY MS. LAKE:  
12:23:54 5 Q. Good afternoon -- or good morning -- or good  
12:23:56 6 afternoon.  
12:23:56 7 A. Good afternoon.  
12:23:56 8 Q. Please state your name for the record.  
12:23:58 9 A. Michael Grossman.  
12:23:59 10 Q. Please spell your full name for the record.  
12:24:01 11 A. M-i-c-h-a-e-l, G-r-o-s-s-m-a-n.  
12:24:06 12 Q. And Agent Grossman, who do you work for?  
12:24:09 13 A. The Drug Enforcement Administration.  
12:24:11 14 Q. Is that commonly known as DEA?  
12:24:13 15 A. Yes.  
12:24:13 16 Q. And are you a special agent?  
12:24:16 17 A. Yes.  
12:24:16 18 Q. And where are you assigned?  
12:24:18 19 A. To the St. Thomas resident office.  
12:24:19 20 Q. And briefly describe some of your duties as a  
12:24:22 21 special agent.  
12:24:23 22 A. To enforce federal drug laws.  
12:24:25 23 Q. And how long have you been an agent with DEA?  
12:24:29 24 A. Ten years.  
12:24:30 25 Q. And how long have you worked in law enforcement?

12:24:32 1 A. Ten years.

12:24:36 2 Q. And can you -- were you involved in the Roberto

12:24:38 3 Tapia investigation?

12:24:39 4 A. Yes, I was.

12:24:40 5 Q. Can you briefly describe explain your involvement

12:24:44 6 in the Roberto Tapia investigation?

12:24:46 7 A. I was involved in most of the aspects of the

12:24:48 8 investigation, to include surveillance, arrest, regular

12:24:53 9 enforcement activities, report writing, evidence

12:24:57 10 processing.

12:24:58 11 Q. Does that include telephone data analysis?

12:25:02 12 A. Yes, it did.

12:25:02 13 Q. And what is that?

12:25:03 14 A. That's when we analyze the telephone records of

12:25:07 15 those that are under investigation, and perhaps even

12:25:11 16 those they're in contact with.

12:25:13 17 Q. And generally how do you do that?

12:25:16 18 A. I generally -- well, we discover a telephone number

12:25:19 19 that an individual is using that is a target of the

12:25:22 20 investigation. We'll typically order telephone tolls,

12:25:25 21 telephone subscriber reports on those devices and that,

12:25:29 22 that tells us who the phone is subscribed to, as well as

12:25:33 23 the activity of the phone, who they're in contact with

12:25:35 24 and such.

12:25:36 25 Q. And now showing you what's been marked as

12:25:38 1 Government's Exhibit 85a.

12:26:05 2 Do you see Government's Exhibit 85a in front of

12:26:08 3 you?

12:26:08 4 A. Yes, ma'am.

12:26:09 5 Q. And showing you the top of the document?

12:26:13 6 A. Yes.

12:26:13 7 Q. Do you recognize this?

12:26:14 8 A. Yes, I do.

12:26:15 9 Q. And what is Government's Exhibit 85a?

12:26:17 10 A. That's a telephone subscriber report from AT&T.

12:26:21 11 Q. For whom?

12:26:22 12 A. That's for telephone that's subscribed to the

12:26:25 13 number 340-690-7076.

12:26:30 14 Q. And showing you the second part of Government's

12:26:34 15 Exhibit 85a, do you recognize that item?

12:26:37 16 A. Yes, I do.

12:26:37 17 Q. And what is Government's Exhibit 85a, part 2?

12:26:41 18 A. That's a telephone toll record, and there in the

12:26:49 19 top left-hand corner you can see that's the telephone

12:26:52 20 toll record for a number assigned to a 340-690 -- I

12:26:58 21 think that says 1220.

12:27:05 22 Q. And now showing you Government's Exhibit 85b. Do

12:27:11 23 you see this in front of you?

12:27:15 24 A. Yes, I do.

12:27:16 25 Q. And showing you page 2 of that item. Do you

12:27:20 1 recognize this?

12:27:21 2 A. Yes. That's telephone toll record for Sprint.

12:27:25 3 Q. And for whom? Or for what?

12:27:28 4 A. It looks like it's the telephone toll records for

12:27:33 5 assigned 340-998-9189.

12:27:39 6 Q. And now finally showing you Government's

12:27:47 7 Exhibit 85c.

12:27:49 8 Do you see that document in front of you?

12:27:51 9 A. Yeah. Can you scroll up there.

12:27:59 10 Q. Do you recognize Government's Exhibit 85c?

12:28:01 11 A. Yes. That's a portion of the subscriber record.

12:28:05 12 And I'm having a hard time seeing the number, though.

12:28:09 13 Q. And showing you page 2 of the document.

12:28:14 14 Do you see that in front of you?

12:28:15 15 A. Yes. This is just a continuation of the subscriber

12:28:18 16 record.

12:28:23 17 Q. And showing you page -- I think page 10, do you see

12:28:32 18 that in front of you?

12:28:33 19 A. Yes, I do.

12:28:33 20 Q. And what is page 10 of Government's Exhibit 85c?

12:28:38 21 A. That's the toll record for number 939-268-2857.

12:28:44 22 Q. And have you seen these documents before?

12:28:46 23 A. Yes, I have.

12:28:47 24 Q. And of the phone numbers you've just testified to,

12:28:49 25 are you familiar with those phone numbers?

12:28:51 1 A. Yes, I am.

12:28:51 2 Q. And how are you familiar with them?

12:28:53 3 A. They're assigned to the targets of this

12:28:56 4 investigation.

12:28:57 5 Q. And what, if anything, did you do when you received

12:29:01 6 and reviewed these documents?

12:29:04 7 A. Once I received them, myself and my intel analyst,

12:29:12 8 Janet Hines, placed them into our database that we have,

12:29:14 9 that we use at the DEA called PenLink. And what PenLink

12:29:19 10 stores, it stores the telephone toll records as well as

12:29:22 11 the subscriber records. And we're then able to see in a

12:29:25 12 simplified form which phones are in contact with one

12:29:29 13 another, the times of day, the duration of the call,

12:29:32 14 whether it's an incoming or outgoing call.

12:29:34 15 And you can run all sorts of various reports. It

12:29:37 16 just sort of simplifies these toll records, because it

12:29:42 17 is rather monotonous, seeing all these phone records.

12:29:46 18 Q. What did you do next?

12:29:48 19 A. Myself and Agent Hines created a simplified chart

12:29:52 20 of the relevant data related to the events of May 17th,

12:29:56 21 2013, and May 18th, 2013, that showed us the telephone

12:30:01 22 contacts between the targets, Angelo Hill, Walter Hill,

12:30:04 23 Roberto Tapia, and the target that we knew at that time

12:30:07 24 as Pee Wee.

12:30:08 25 Q. And showing you what's been marked as Government's

12:30:12 1 Exhibit 85a -- I'm sorry -- Government's Exhibit 85d-1.

12:30:12 2 (Government's Exhibit 85d-1 marked for

12:30:12 3 identification.)

12:30:12 4 BY MS. LAKE:

12:30:21 5 Q. Do you see this in front of you?

12:30:22 6 A. Yes, I do.

12:30:23 7 Q. And what is Government's Exhibit 85d-1?

12:30:26 8 A. That's a portion of the chart that we created to

12:30:28 9 sort of simplify the relevant data that I just

12:30:33 10 described.

12:30:33 11 Q. Does it reflect a certain date?

12:30:35 12 A. Yes. This is the relevant telephone data for

12:30:38 13 May 17th, 2013.

12:30:38 14 (Government's Exhibit 85d-2 marked for

12:30:38 15 identification.)

12:30:40 16 BY MS. LAKE:

12:30:40 17 Q. And showing you what's been marked as Government's

12:30:43 18 Exhibit 85d-2.

12:30:45 19 Do you recognize this item?

12:30:46 20 A. I do.

12:30:46 21 Q. And what is Government's Exhibit 85d-2?

12:30:49 22 A. This is just a simplification of the form you just

12:30:53 23 showed me, that shows the actual telephone calls, the

12:30:56 24 duration, the times. And this shows the amount of

12:30:58 25 contacts between the telephones that are assigned to the

12:31:01 1 various targets that I've described.

12:31:03 2 Q. And how does the chart in Government's Exhibits  
12:31:08 3 85d-1 and d-2, do they contain or relate -- how do they  
12:31:11 4 contain or relate to the underlying information in  
12:31:14 5 Government's Exhibit 85 --

12:31:18 6 MR. MINGOLLA: Objection.

12:31:19 7 THE COURT: Overruled.

12:31:20 8 THE WITNESS: This is just a simplified chart  
12:31:25 9 that shows you the number of calls between the  
12:31:27 10 particular telephone devices.

12:31:30 11 BY MS. LAKE:

12:31:30 12 Q. And does the correlation of these documents, 85d-1  
12:31:37 13 and d-2, show information that cannot be conveniently  
12:31:39 14 established by bringing the underlying records in Court?

12:31:42 15 A. Well, it's certainly a simpler way of seeing it.  
12:31:47 16 You can discover the same amount of data looking through  
12:31:49 17 the toll records, but it's rather monotonous and time  
12:31:53 18 consuming.

12:31:55 19 Q. Would it be possible to conveniently analyze the  
12:31:58 20 records in Government's Exhibit 85a, b and c in Court?

12:32:02 21 A. Conveniently, yes.

12:32:03 22 Q. Government's 85a, b and c, would it be convenient  
12:32:07 23 for the Court -- the data in Government's Exhibit 85d-1  
12:32:13 24 and d-2, is it a simplified way to conveniently review  
12:32:17 25 the information and the relevant information in

12:32:19 1 Government's Exhibits 85a, b and c?

12:32:22 2 A. Yes, it is.

12:32:23 3 MS. LAKE: Your Honor, I would ask that

12:32:24 4 Government's Exhibit 85d-1 and d-2 be received into  
12:32:29 5 evidence.

12:32:30 6 THE COURT: Any objection, Attorney Mingolla?

12:32:32 7 MR. MINGOLLA: Yes, I do have an objection.

12:32:34 8 THE COURT: Attorney Watlington, any objection?

12:32:36 9 MR. WATLINGTON: None, Your Honor.

12:32:37 10 THE COURT: All right. It's under advisement.

12:32:39 11 Next question.

12:32:40 12 BY MS. LAKE:

12:32:40 13 Q. And can you please explain the information that's  
12:32:42 14 contained in Government's Exhibit 85d-1 and d-2?

12:32:46 15 A. Yes. That's the, as I said earlier, the number of  
12:32:51 16 telephone calls that are between the devices that were  
12:32:54 17 used by Angelo Hill, Walter Hill, the target that we  
12:32:58 18 knew as Pee Wee, who was Beltran, and Roberto Tapia on  
12:33:03 19 May 17th throughout the day, the times that the phones  
12:33:05 20 were in contact with one another, the duration of the  
12:33:07 21 telephone call, whether it was an incoming or outgoing  
12:33:12 22 call to the other person.

12:33:13 23 Q. And what, if anything, did you determine based on  
12:33:16 24 your analysis of Government's Exhibit 85a, b and c?

12:33:20 25 A. Well, it just shows us who was talking to who on

12:33:23 1 that day, and what times.

12:33:24 2 Q. And what is that information?

12:33:31 3 A. It shows that on that day, May 17th, that the

12:33:34 4 telephone used by Roberto Tapia was in contact with the

12:33:37 5 phone used by Angelo Hill six times. That that same

12:33:40 6 telephone used by Angelo Hill was in contact with the

12:33:43 7 telephone used by Walter Hill 12 times. And that the

12:33:46 8 telephone used by Roberto Tapia was in contact with the

12:33:49 9 telephone used by Beltran 13 times.

12:33:53 10 Q. And what is the significance of this information?

12:33:58 11 A. Well, if you put this against the events that day,

12:34:02 12 as far as the surveillance that was conducted on Roberto

12:34:05 13 Tapia --

12:34:06 14 THE COURT: No, no.

12:34:07 15 MR. MINGOLLA: I would object to leading.

12:34:08 16 THE COURT: Sustained. It's not leading.

12:34:10 17 Next question.

12:34:10 18 BY MS. LAKE:

12:34:13 19 Q. And what, if anything, happened on May 17th, 2013?

12:34:17 20 A. That's when Roberto Tapia was surveyed going out on

12:34:20 21 his boat to meet with another vessel --

12:34:22 22 THE COURT: Let's move on. Next question.

12:34:25 23 MS. LAKE: Thank you. I have nothing further,

12:34:27 24 Your Honor.

12:34:27 25 Again, I would ask that Government's Exhibit 85d-1

12:34:30 1 and d-2 be received into evidence.

12:34:34 2 THE COURT: Thank you. It's under advisement.

12:34:36 3 Attorney Mingolla, any questions?

12:34:39 4 MR. MINGOLLA: No. No, Judge.

12:34:39 5 THE COURT: Attorney Watlington?

12:34:41 6 MR. WATLINGTON: No questions, Your Honor.

12:34:42 7 THE COURT: Agent Grossman, thank you for your

12:34:43 8 testimony.

12:34:44 9 You may step down.

12:34:45 10 THE WITNESS: Thank you, Judge. Am I

12:34:46 11 dismissed?

12:34:47 12 THE COURT: Attorney Mingolla, any need for

12:34:50 13 Agent Grossman?

12:34:50 14 MR. MINGOLLA: No.

12:34:51 15 THE COURT: Attorney Watlington?

12:34:52 16 MR. WATLINGTON: None.

12:34:53 17 THE COURT: You're excused. Thank you.

12:34:53 18 (Witness excused.)

12:34:55 19 THE COURT: Next witness?

12:34:57 20 MS. LAKE: The government has no further

12:34:58 21 witnesses, Your Honor.

12:35:00 22 THE COURT: Okay.

12:35:21 23 (Pause).

12:38:57 24 (Jury Panel A present.)

12:39:03 25 THE COURT: Good afternoon. Welcome back,

12:39:04 1 Panel A.

12:39:05 2 Let me explain something. One of the reasons

12:39:08 3 Panel A was excused for the moment is because there were

12:39:11 4 certain things that pertained just to the defendant that

12:39:14 5 you will not be considering during your deliberations.

12:39:17 6 So that is why Panel A was excused for the moment.

12:39:21 7 At this point, I believe, does the government have

12:39:24 8 any further witnesses?

12:39:26 9 MS. LAKE: No. We just ask that Government's

12:39:30 10 Exhibit 85a, b and c be received into evidence.

12:39:33 11 THE COURT: Notwithstanding that, the

12:39:34 12 government rests?

12:39:35 13 MS. LAKE: Yes, Your Honor.

12:39:36 14 THE COURT: All right. Ladies and gentlemen,

12:39:37 15 the government rests. That means that all the

12:39:40 16 government's evidence in its case-in-chief is now before

12:39:42 17 you.

12:39:42 18 There are some matters we need to tend to, but we

12:39:46 19 will tend to them after lunch.

12:39:47 20 So importantly, your lunch is here. It is time for

12:39:51 21 lunch. We will break for 1 hour and 20 minutes.

12:39:59 22 All right. Enjoy your lunch.

12:40:02 23 (Juries out.)

12:40:35 24 THE COURT: Does counsel want to be heard,

12:40:37 25 Attorney Mingolla?

12:40:40 1 MR. MINGOLLA: Obviously you're not referencing  
12:40:43 2 closing argument, so no, I have nothing to say, sir.  
12:40:46 3 MR. WATLINGTON: Yes, Your Honor.  
12:40:47 4 THE COURT: I'm sure you wish to make a  
12:40:49 5 petition of some sort?  
12:40:51 6 MR. MINGOLLA: Well, there's an issue I wanted  
12:40:53 7 to raise, and that's the following. There's  
12:40:56 8 information --  
12:40:57 9 THE COURT: Not that kind of motion -- let  
12:40:59 10 me -- Attorney Watlington, you want to be heard?  
12:41:02 11 MR. WATLINGTON: Yes, Your Honor.  
12:41:03 12 THE COURT: Come to the lectern, please.  
12:41:08 13 RULE 29 MOTIONS BY THE DEFENDANTS  
12:41:08 14 MR. WATLINGTON: Yes, Your Honor. At this time  
12:41:10 15 the Defendant Brown would make a motion for Rule 29 in  
12:41:15 16 regards to Counts Number 4 through 29, in regards to the  
12:41:20 17 use of the telephone in facilitating -- or electronic  
12:41:27 18 device in facilitating a drug transaction.  
12:41:29 19 Your Honor, I don't think there's been a prima  
12:41:32 20 facie showing that the government has proven the counts  
12:41:34 21 in Counts Number 4, 5, 6, 7, 8, 9, 10, specifically in  
12:41:40 22 regards to the November 26, two telephone calls;  
12:41:44 23 December 2, one; December 3rd, two; and December 6th,  
12:41:51 24 two telephone calls, all being in the year 2012.  
12:41:56 25 In addition thereto, the defendant would also make

12:41:59 1 a motion for a rule, motion for judgment of acquittal  
12:42:04 2 pursuant to Rule 29 as it regards Count Number 3.

12:42:09 3 THE COURT: That's the conspiracy count?

12:42:11 4 MR. WATLINGTON: No, that's the possession,  
12:42:13 5 federal distribution of possession of cocaine with the  
12:42:20 6 intent to distribute of more than five kilos.

12:42:27 7 I don't believe, Your Honor, that based on the  
12:42:29 8 testimony there has been any, any evidence that has been  
12:42:31 9 put forth by the government to send to the jury that in  
12:42:37 10 fact Defendant Brown was at any time in possession of  
12:42:42 11 24 kilos of cocaine.

12:42:44 12 At best, you have the testimony of Mr. Tapia, who  
12:42:49 13 said that he told him he can pick up 24, 24 kilos in a  
12:42:55 14 car that was parked in the Market Square area, a blue  
12:43:01 15 Honda. That, in and of itself, is not possession of any  
12:43:07 16 cocaine, more than five kilograms, as is charged in  
12:43:10 17 Count Number 3.

12:43:10 18 There is absolutely nothing in the record that  
12:43:14 19 would in fact suggest any possession of any cocaine more  
12:43:21 20 than five kilos as is stated in the indictment.

12:43:25 21 I would submit, Your Honor, that I don't want to  
12:43:28 22 waste the Court's time by making frivolous motions for  
12:43:32 23 Rule 29 as opposed to the conspiracy, because there has  
12:43:36 24 been testimony by Mr. Tapia in regards to some planning  
12:43:40 25 or alleged agreement between the parties, even though we

12:43:44 1 believe that's incredible. We know that at this point  
12:43:47 2 in time credibility is not an issue.

12:43:49 3 And we in fact cannot contest Mr. Tapia's  
12:43:55 4 testimony, even though we believe it's incredible and  
12:44:02 5 false, that he had some exchange with Mr. Brown in  
12:44:04 6 regards to some two kilos. Even though again we believe  
12:44:07 7 that's incredible, we don't want to waste the Court's  
12:44:10 8 time in making arguments when in fact there has been  
12:44:13 9 some *prima facie* showing that has been placed in front  
12:44:16 10 of the judge and the jury.

12:44:17 11 THE COURT: All right. Thank you, Attorney  
12:44:19 12 Watlington.

12:44:20 13 Attorney Mingolla, you want to be heard?

12:44:23 14 MR. MINGOLLA: Yes, I do, sir.

12:44:24 15 THE COURT: Briefly.

12:44:25 16 MR. MINGOLLA: Yes, sir. I'll discuss later an  
12:44:29 17 issue that's bothering me greatly.

12:44:32 18 I'm going -- I also am going to make a Rule 29  
12:44:36 19 motion that the government has not proven its case  
12:44:39 20 against my client, Mr. Walter Hill.

12:44:47 21 They, the -- in terms of the conspiracy, there's  
12:44:53 22 insufficient evidence to show that he conspired with --  
12:44:59 23 there's been no evidence presented to show or indicate  
12:45:01 24 that he conspired, really, with anyone. We're -- we, I  
12:45:12 25 share my brother's reservations about Mr. Tapia's

12:45:17 1 testimony.

12:45:21 2 Furthermore, I would take exception to the fact  
12:45:26 3 that when the government presented the telephone logs to  
12:45:35 4 Mr. Ott, that the first one that they put down as an  
12:45:41 5 exhibit --

12:45:41 6 THE COURT: I think Mr. Grossman presented  
12:45:45 7 those. Ott was --

12:45:48 8 MR. MINGOLLA: Yes, Mr. Grossman put down --  
12:45:50 9 well, strike that.

12:45:51 10 The government presented the first exhibit for  
12:45:53 11 Mr. Walter Hill, and it's clearly for Mr. Walter Hill.  
12:46:02 12 Then they present several more exhibits with innumerable  
12:46:05 13 phone calls, with the implication being that all of  
12:46:08 14 those -- since they began with Walter Hill, who only had  
12:46:12 15 either five or six, I'm sorry, I've forgotten, only had  
12:46:16 16 five or six calls, where, but then they proceed to show,  
12:46:20 17 without identifying at the top of the subsequent  
12:46:27 18 exhibits of phone calls, who made those phone calls,  
12:46:30 19 none of which involve my client.

12:46:32 20 But the jury doesn't know that. And so the  
12:46:36 21 implication to the jury, which would obviously be  
12:46:38 22 prejudicial, is that since they showed Walter Hill's  
12:46:43 23 name on the first exhibit, that all of those subsequent  
12:46:47 24 calls may or may not have involved, they didn't identify  
12:46:52 25 who those phones belonged to.

12:46:55 1 And the implication would be, at least to me, or to  
12:46:59 2 the jury, that since it was captioned, if you will, in  
12:47:03 3 the first document, Walter Hill, and there's no other  
12:47:07 4 captions on the subsequent exhibits of the telephone  
12:47:10 5 records, then every one of those, or the majority of  
12:47:14 6 them or even a portion of them, involve my client, when  
12:47:20 7 they don't.

12:47:20 8 THE COURT: All right. Thank you, Attorney  
12:47:21 9 Mingolla.

12:47:23 10 MR. MINGOLLA: One minute, Your Honor --

12:47:25 11 THE COURT: Well, I think I understand your  
12:47:26 12 position with respect to Rule 29.

12:47:28 13 All right. Before the Court are the petitions for  
12:47:31 14 Rule 29 relief. Of course when the Court is addressing  
12:47:34 15 such a motion the Court is required to view the evidence  
12:47:37 16 in the light most favorable to the government and give  
12:47:40 17 the government all favorable inferences.

12:47:44 18 Credibility is not in issue at the Rule 29 stage.  
12:47:47 19 The Court is really tasked with determining whether  
12:47:50 20 there's sufficient basis for a reasonable jury to  
12:47:52 21 conclude that there has been guilt proven beyond a  
12:47:57 22 reasonable doubt.

12:47:57 23 And again, the standard that the Court is required  
12:48:00 24 to apply is one that requires the Court to view the  
12:48:04 25 evidence in the light most favorable to the government

12:48:06 1 and give the government every favorable inference.

12:48:08 2 Applying that standard, the Court is persuaded that  
12:48:12 3 with respect to Count 37 involving Walter Hill, that is  
12:48:15 4 a conspiracy count, that there's sufficient evidence,  
12:48:18 5 there's been sufficient testimony adduced throughout the  
12:48:22 6 course of this trial, at least up to this stage, to  
12:48:24 7 indicate that a reasonable jury could conclude beyond a  
12:48:30 8 reasonable doubt that Mr. Walter Hill was engaged in a  
12:48:33 9 conspiracy to possess with the intent to distribute a  
12:48:35 10 controlled substance, that being cocaine.

12:48:39 11 Similarly with respect to Count 38 with respect to  
12:48:43 12 Walter Hill, that is, possession with intent to  
12:48:47 13 distribute, and there's been clearly sufficient  
12:48:50 14 testimony to indicate that there was possession of an  
12:48:54 15 amount that would indicate distribution, and giving the  
12:48:59 16 government all favorable inferences and viewing the  
12:49:02 17 light -- the evidence in the light most favorable to the  
12:49:04 18 government, Rule 29 relief is not appropriate there,  
12:49:06 19 either.

12:49:07 20 Nor is it with respect to Count 42, which is the  
12:49:11 21 use of a communication facility to facilitate a drug  
12:49:13 22 crime. I think that is readily apparent on the record.  
12:49:17 23 So Rule 29 relief is not appropriate under those  
12:49:21 24 circumstances.

12:49:21 25 With respect to Count 1, Raymond Brown, I think

12:49:26 1 counsel appropriately sums it up, and with respect to  
12:49:30 2 Mr. Brown, the Court has to view the evidence in the  
12:49:34 3 light most favorable to the government and give the  
12:49:36 4 government every favorable inference. And there has  
12:49:38 5 been more than enough testimony from which a reasonable  
12:49:41 6 jury could conclude beyond a reasonable doubt that the  
12:49:43 7 Defendant Raymond Brown was involved in a conspiracy to  
12:49:46 8 possess with intent to distribute cocaine as alleged in  
12:49:49 9 Count 1 of the indictment. So Rule 29 relief is not  
12:49:52 10 appropriate for that count.

12:49:54 11 With respect to Count 2, possession with intent to  
12:49:58 12 distribute cocaine, the Court will keep that under  
12:50:02 13 advisement, as it will Count 3 and Counts 4 through 10  
12:50:10 14 with respect to Mr. Brown.

12:50:17 15 All right, Counsel. Lunch will take place now for  
12:50:24 16 one hour. One hour from now. All right, Counsel?

12:50:28 17 MR. MINGOLLA: Judge?

12:50:29 18 THE COURT: Yes.

12:50:29 19 MR. MINGOLLA: I'm sorry.

12:50:30 20 THE COURT: Yes, go ahead, Attorney Mingolla.

12:50:33 21 MR. MINGOLLA: Judge, this is real quick. It  
12:50:37 22 has come to my attention, obviously this case is being  
12:50:40 23 reported in the newspaper, and obviously the jury has  
12:50:42 24 been instructed not to read media or newspapers, et  
12:50:42 25 cetera.

12:50:47 1 But there's information that was reported in the  
12:50:48 2 newspaper today that was not brought out in testimony  
12:50:54 3 regarding Tapia and my client. And the only conceivable  
12:51:00 4 way that that information could have been obtained by  
12:51:02 5 the reporter was by someone leaking to him, the  
12:51:06 6 reporter, and I'm not saying who, because I don't know,  
12:51:09 7 but it certainly wasn't me.

12:51:12 8 Somebody is leaking to a reporter these DEA 6  
12:51:18 9 reports, or at least portions of the DEA 6 reports,  
12:51:21 10 because there's no other conceivable way that the  
12:51:25 11 newspaper reporter would have that information. So I  
12:51:28 12 would ask you --

12:51:28 13 THE COURT: Are you saying that information  
12:51:29 14 that was not made public in court --

12:51:34 15 MR. MINGOLLA: Right.

12:51:35 16 THE COURT: -- is being released by --

12:51:37 17 MR. MINGOLLA: That's correct. So it's got to  
12:51:39 18 be coming from somebody, and that's improper.

12:51:41 19 THE COURT: All right.

12:51:42 20 MR. MINGOLLA: So I would ask you to admonish  
12:51:43 21 the newspaper reporter, I don't know who he is, or she  
12:51:47 22 is, to only, to keep their facts straight and to stick  
12:51:51 23 with what the testimony is, and --

12:51:53 24 THE COURT: Well, I think --

12:51:54 25 MR. MINGOLLA: -- stop getting information --

12:51:56 1 THE COURT: I think that is something that is  
12:52:00 2 more a concern for the party that holds the information.  
12:52:04 3 That is, if the government has information and it's  
12:52:06 4 getting out in a way that it shouldn't, or if it's -- it  
12:52:11 5 might be in the possession of any number of people who  
12:52:14 6 may have disclosed the information.

12:52:16 7 But there's no prior restraint on the press to say  
12:52:19 8 you can't publish something that's been placed in your  
12:52:21 9 hands. But if you're suggesting that someone who may  
12:52:24 10 have the DEA 6 disclosed it, then that's a separate  
12:52:29 11 issue.

12:52:29 12 It could be anyone. I'm sure the DEA 6's must have  
12:52:32 13 been shared with defense counsel, or some have, and  
12:52:37 14 there could be any number of sources that may have  
12:52:41 15 shared information. I have not seen any article. I  
12:52:44 16 have not read any paper, so I have no idea what it is.

12:52:48 17 But to the extent the government finds it  
12:52:53 18 appropriate to look into this, then I'll ask the  
12:52:55 19 government to look into it, to see if there is anything.  
12:52:57 20 I haven't seen it, but with respect to your petition to  
12:53:02 21 admonish or direct the press, the Court is not inclined,  
12:53:07 22 nor will it do that.

12:53:09 23 But if there is information that's improperly  
12:53:10 24 disclosed, it's something that does concern the Court,  
12:53:13 25 and I'll ask all parties to sort of make sure that they

12:53:20 1 have sufficient restraints on information so as not to  
12:53:24 2 prejudice the rights of anyone who is on trial.

12:53:27 3 MR. MINGOLLA: Thanks, Judge.

12:53:28 4 THE COURT: All right. I think I had said  
12:53:30 5 one hour. Why don't we make it one hour and  
12:53:33 6 seven minutes for lunch. All right. Enjoy your lunch,  
12:53:36 7 Counsel.

12:53:48 8 One other thing, the exhibit at Exhibit Number 80,  
12:53:51 9 I believe, is that -- what is the contraband? 80?

12:53:56 10 MS. LAKE: 80a.

12:53:57 11 THE COURT: 80a, let me make sure that box is  
12:54:00 12 sealed.

12:54:01 13 MS. LAKE: Yes, Your Honor.

12:54:01 14 THE COURT: Let me make sure it's sealed.

12:54:04 15 Thank you.

14:05:23 16 (Court in recess, 12:54 p.m.)

14:05:23 17 (After recess, juries not present, 2:05 p.m.)

14:05:23 18 THE COURT: All right. With respect to the --  
14:05:23 19 I've ruled on Count 1, and the counts with respect to  
14:05:23 20 Mr. Hill.

14:05:23 21 With respect to Counts 2 and 3, I'm going to grant  
14:05:23 22 the petition for Rule 29 relief on those two counts.

14:05:23 23 And with respect to Counts 4 through 10, it is denied.

14:05:23 24 So the surviving count with respect to Mr. Brown will be  
14:05:23 25 Count 1 and the phone counts; for the conspiracy and the

14:05:23 1 phone counts.

14:05:23 2 MR. WATLINGTON: Thank you, Your Honor.

14:05:23 3 THE COURT: All right. So counsel is clear,

14:05:23 4 what I'd like to do is --

14:05:23 5 MS. LAKE: Your Honor, may I be heard?

14:05:24 6 THE COURT: Hold on a second. Our jury is

14:05:26 7 lining up.

14:05:27 8 Let me ask Attorney Mingolla, are you planning to

14:05:30 9 put on any evidence, any witnesses?

14:05:33 10 MR. MINGOLLA: No, Your Honor.

14:05:34 11 THE COURT: Attorney Watlington?

14:05:35 12 MR. WATLINGTON: One, Your Honor.

14:05:36 13 THE COURT: What I'll do is let the jury know

14:05:41 14 that there's no obligation of counsel to present any

14:05:44 15 testimony or any evidence, but let them know that we

14:05:47 16 always give an opportunity to the defense to present any

14:05:49 17 matters.

14:05:49 18 Then I'll turn to Attorney Mingolla, who can rest

14:05:52 19 if you wish to at that time. Then I'll turn to Attorney

14:05:58 20 Watlington, and you can indicate what you choose to do,

14:06:00 21 Attorney Watlington.

14:06:01 22 Do you expect it to be a long witness?

14:06:05 23 MR. WATLINGTON: No, Your Honor, not --

14:06:06 24 THE COURT: Hold on. Hold on.

14:06:15 25 Let me ask counsel not to speak when the door is

14:06:17 1 open, because the jury is lined up here and they can  
14:06:20 2 hear everything. But yes, you expect your witness to be  
14:06:22 3 short?

14:06:23 4 MR. WATLINGTON: Yes, Your Honor.

14:06:23 5 THE COURT: Then we will have the charge  
14:06:25 6 immediately thereafter in chambers, and then we'll have  
14:06:34 7 the Group A argument first. And my hope is to do that  
14:06:39 8 today, so that they can have it and either start  
14:06:41 9 deliberation today or tomorrow morning. And they will  
14:06:50 10 of course be segregated of course for that. And then  
14:06:54 11 we'll go on to Group B and have that argument.

14:06:56 12 Yes, Attorney Watlington.

14:06:58 13 MR. WATLINGTON: Nothing, Your Honor.

14:07:00 14 THE COURT: All right. Counsel should have --  
14:07:03 15 well, you will have a copy shortly of the, of the jury  
14:07:08 16 instructions. There will be one charge. The  
14:07:28 17 instructions will be sufficiently generic so that there  
14:07:41 18 won't be a need for two charges.

14:07:43 19 So the only thing that will be separate will be the  
14:07:47 20 verdict forms and the arguments.

14:08:57 21 MS. LAKE: Your Honor, I --

14:09:56 22 (Juries present.)

14:09:59 23 THE COURT: All right. Ladies and gentlemen,  
14:10:01 24 how was lunch?

14:10:03 25 (Response.)

14:10:04 1 THE COURT: Okay. Good. Another set of thumbs  
14:10:07 2 up.

14:10:09 3 As you know, the government has presented the  
14:10:12 4 evidence in its case-in-chief. You may recall that I  
14:10:15 5 indicated to you that the government has the burden of  
14:10:19 6 proving, must prove the defendant's guilt beyond a  
14:10:22 7 reasonable doubt.

14:10:22 8 The burden is with the government. It is always  
14:10:25 9 with the government. It doesn't shift.

14:10:27 10 The defense has no obligation to present any  
14:10:31 11 testimony, to present any witnesses at all. And if the  
14:10:35 12 defense chooses to present any matters to you, it  
14:10:39 13 doesn't shift the burden. The burden never shifts.

14:10:42 14 So notwithstanding that the defense has no  
14:10:44 15 obligation to present any testimony, we always give the  
14:10:47 16 defense an opportunity, if the defense chooses to, to  
14:10:50 17 present any matters for your consideration. So having  
14:10:52 18 said that...

14:10:53 19 Attorney Mingolla?

14:10:55 20 MR. MINGOLLA: Your Honor, we feel that this  
14:10:58 21 case is so thin that we're not going to be presenting  
14:11:02 22 any witnesses.

14:11:02 23 THE COURT: So defense for Walter Hill rests,  
14:11:06 24 then?

14:11:08 25 MR. MINGOLLA: Yes, Your Honor.

14:11:08 1 THE COURT: Okay. Very good.

14:11:10 2 Attorney Watlington.

14:11:13 3 MR. WATLINGTON: Yes, Your Honor. We have one

14:11:14 4 witness, Latoya Springette.

14:11:17 5 THE COURT: All right. You can call that

14:11:19 6 witness.

14:12:13 7 THE CLERK: Please step into the witness box.

14:12:16 8 Please stand and raise your right hand to take the oath.

14:12:18 9 (Witness sworn.)

14:12:24 10 THE WITNESS: Yes.

14:12:27 11 THEREUPON, LATOYA SPRINGETTE, having been duly

14:12:29 12 sworn, was examined and testified as follows:

14:12:29 13 DIRECT EXAMINATION

14:12:30 14 BY MR. WATLINGTON:

14:12:34 15 Q. Good afternoon, Ms. Springette.

14:12:35 16 A. Good afternoon.

14:12:36 17 Q. Could you tell the ladies and gentlemen of the jury

14:12:38 18 your full name?

14:12:39 19 A. Latoya Springette.

14:12:41 20 Q. And could you give them your address?

14:12:43 21 A. It's 13-E Dorothea, Estate Dorothea.

14:12:48 22 Q. And are you employed?

14:12:49 23 A. Yes, I am.

14:12:50 24 Q. And where are you employed?

14:12:51 25 A. Synergy Fitness and Wellness Center.

14:12:56 1 Q. And how often is -- what are your hours of  
14:12:58 2 employment?  
14:12:58 3 A. It varies, because I'm an office manager assistant.  
14:13:03 4 Q. You are the?  
14:13:04 5 A. Assistant manager.  
14:13:07 6 Q. And it's flexible?  
14:13:08 7 A. Uhm-hmm.  
14:13:09 8 Q. Okay. Could you tell the ladies and gentlemen of  
14:13:11 9 the jury what relationship you have, if any, to the  
14:13:14 10 Lockhart -- to the Brown family?  
14:13:17 11 A. Raymond Brown is my boyfriend.  
14:13:20 12 Q. By that you mean what?  
14:13:22 13 A. We've been dating for eight years now.  
14:13:25 14 Q. And 13-E Dorothea is whose address?  
14:13:30 15 A. Raymond Brown's mother and his.  
14:13:33 16 Q. And that's where you live?  
14:13:35 17 A. Correct.  
14:13:36 18 Q. How long have you lived there?  
14:13:37 19 A. I've lived there now for seven years.  
14:13:41 20 Q. In addition to being his boyfriend [sic], is there  
14:13:44 21 any other relationship that you have with Raymond and/or  
14:13:47 22 the family?  
14:13:48 23 A. That's about it. Just my boyfriend and they have  
14:13:51 24 become my family.  
14:13:52 25 Q. And they have become -- they have become what, just

14:13:55 1 as a result of living together?

14:13:57 2 A. Correct, and me being in a relationship with him.

14:14:00 3 Q. Have -- is there any offsprings of that

14:14:02 4 relationship?

14:14:03 5 A. Yes. We have a 4-year-old daughter.

14:14:05 6 Q. 4-year-old daughter?

14:14:06 7 A. Uhm-hmm.

14:14:07 8 Q. Do you know Raymond to have -- well, let me ask you

14:14:11 9 this. In addition to the 4-year-old daughter, does

14:14:15 10 Raymond have any other children?

14:14:16 11 A. Not that I know of.

14:14:19 12 Q. And you say you've known him for how long?

14:14:21 13 A. Eight years.

14:14:22 14 Q. Have you been monitoring over that -- monitoring

14:14:26 15 him over those eight years?

14:14:28 16 A. You can kind of say so.

14:14:31 17 Q. Drawing your attention to December of 2012, were

14:14:37 18 you and the family on any trips?

14:14:39 19 A. Yes, me and Raymond and my 4-year-old daughter.

14:14:42 20 Q. And where did you go?

14:14:44 21 A. We went to Puerto Rico for Christmas shopping.

14:14:47 22 Q. Okay. And do you remember what date that was?

14:14:49 23 A. I know it was just sometime around December, like

14:14:52 24 ending of December before Christmas.

14:14:54 25 Q. Before Christmas?

14:14:55 1 A. Uhm-hmm.

14:14:56 2 Q. Well, Christmas is the ending of December, so it

14:14:59 3 had to have been before the ending?

14:15:00 4 A. Yeah, before the ending.

14:15:04 5 Q. When there, did you go to any place in Puerto Rico

14:15:07 6 that was not part of the shopping?

14:15:09 7 A. Can you repeat the question?

14:15:11 8 Q. Other than -- while you were in Puerto Rico, did

14:15:13 9 you go to any place else that was not part of your

14:15:16 10 shopping?

14:15:17 11 A. Yes.

14:15:18 12 Q. And where did you go?

14:15:20 13 A. We attended a party.

14:15:21 14 Q. And do you know whose party it was?

14:15:23 15 A. I don't know who party it was.

14:15:26 16 Q. Okay. How did you get to that party?

14:15:28 17 A. With Raymond. We had a car.

14:15:30 18 Q. Okay.

14:15:30 19 A. A rental car.

14:15:31 20 Q. And who invited you to the party, if you know?

14:15:33 21 A. Actually, his mom told us about the party. So of

14:15:38 22 course that's how he got to attend the party.

14:15:40 23 Q. That's how you got there. How long did you stay?

14:15:42 24 A. It wasn't long, because it was the same day of our

14:15:45 25 departure back to St. Thomas.

14:15:46 1 Q. And while you were there, did you, could you  
14:15:49 2 explain to the ladies and gentlemen of the jury what you  
14:15:52 3 did, where Raymond was, where your daughter was?  
14:15:55 4 A. We arrived to this house and we basically stayed on  
14:15:58 5 the porch. They had a roasted pig, so my daughter was  
14:16:03 6 very infatuated with the pig. So we basically stayed on  
14:16:07 7 the porch and played pool. We didn't know the people  
14:16:11 8 that well, so we were just basically on the porch  
14:16:15 9 playing pool.  
14:16:15 10 Q. So you said you were leaving the same day?  
14:16:17 11 A. Correct.  
14:16:18 12 Q. How long did you all stay in Puerto Rico?  
14:16:20 13 A. We left on a Friday evening and returned back to  
14:16:25 14 St. Thomas on Sunday.  
14:16:26 15 Q. So is it safe to say that when you went to this,  
14:16:31 16 this, this party that you referred to, was it in the  
14:16:34 17 day?  
14:16:35 18 A. Yes, it was.  
14:16:36 19 Q. Okay. You were already packed and your bags were  
14:16:40 20 packed?  
14:16:40 21 A. Correct.  
14:16:40 22 Q. They were in the car?  
14:16:42 23 A. Yes --  
14:16:42 24 THE COURT: Stop leading the witness.  
14:16:44 25 MR. WATLINGTON: Thank you.

14:16:45 1 BY MR. WATLINGTON:

14:16:45 2 Q. Where were your bags --

14:16:46 3 A. In the car.

14:16:47 4 Q. -- when you got to the party?

14:16:48 5 A. In the car.

14:16:52 6 Q. And did you -- what, if anything, did you --

14:16:57 7 well -- what -- was it the type of party that you would

14:17:00 8 receive any memorabilia or souvenirs therefrom?

14:17:04 9 A. No. It was maybe a get-together.

14:17:06 10 Q. Yeah.

14:17:07 11 A. I think it was more about this pig. I guess

14:17:10 12 everyone was excited to see this big pig being roasted,

14:17:15 13 so no goody bag or anything.

14:17:17 14 Q. And what, if anything, did you leave with after the

14:17:19 15 party?

14:17:20 16 A. If I left with anything?

14:17:21 17 Q. I said what, if anything?

14:17:23 18 A. We didn't leave with anything. Nothing was given

14:17:26 19 to leave with.

14:17:27 20 Q. And when you say "we"?

14:17:31 21 A. Meaning myself and Raymond Brown.

14:17:35 22 Q. How did you know that?

14:17:36 23 A. Because we were around each other the whole time.

14:17:38 24 We didn't know anyone there at the party that well, so

14:17:41 25 we just sat and he played pool and we sat with my

14:17:47 1 daughter.

14:17:48 2 MR. WATLINGTON: No further questions.

14:17:48 3 THE COURT: Attorney Mingolla, any questions?

14:17:50 4 MR. MINGOLLA: No, Your Honor.

14:17:51 5 THE COURT: Attorney Lake?

14:17:53 6 MS. LAKE: Thank you.

14:17:54 7 CROSS-EXAMINATION

14:17:54 8 BY MS. LAKE:

14:17:55 9 Q. Just a few questions. How large was the party?

14:17:58 10 A. It wasn't a big party.

14:18:00 11 Q. How many people were there?

14:18:01 12 A. I can't recall, but I can say 10, the most, maybe

14:18:07 13 15.

14:18:07 14 Q. What area?

14:18:09 15 A. Of house?

14:18:11 16 Q. Of Puerto Rico?

14:18:13 17 A. I don't remember what area was it. It was a very

14:18:17 18 far drive from where we were staying.

14:18:20 19 Q. Where were you staying?

14:18:22 20 A. In San Juan.

14:18:24 21 Q. I thought you only went for a day?

14:18:26 22 A. No.

14:18:26 23 Q. You had a hotel?

14:18:27 24 A. Yes, we did.

14:18:27 25 Q. Where did you stay in the hotel?

14:18:29 1 A. We stayed at the Marriott.

14:18:31 2 Q. How long did you stay in Puerto Rico?

14:18:33 3 A. We came the Friday and left the Sunday.

14:18:34 4 Q. So you stayed two days?

14:18:36 5 A. Correct.

14:18:36 6 Q. And you were with Raymond Brown the entire time for

14:18:39 7 two days?

14:18:39 8 A. The entire time.

14:18:41 9 Q. You were in his presence the entire time?

14:18:42 10 A. The entire time.

14:18:43 11 Q. For 48 hours?

14:18:44 12 A. For 48 hours.

14:18:45 13 Q. Straight?

14:18:45 14 A. Straight.

14:18:54 15 Q. Do you live with the defendant?

14:18:55 16 A. Yes, I do.

14:18:56 17 Q. Who else lives there?

14:18:58 18 A. Just me and him right now, and my daughter.

14:19:02 19 Q. Does anyone else live on the property?

14:19:04 20 A. On the property?

14:19:05 21 Q. Yes.

14:19:06 22 A. No.

14:19:07 23 Q. How many homes are on the property?

14:19:09 24 A. There's just one home on that property where I'm

14:19:13 25 living.

14:19:14 1 Q. Are there any homes, other homes in the surrounding  
14:19:16 2 property?

14:19:17 3 A. Up the hill, but not on the property where I'm  
14:19:19 4 living.

14:19:19 5 Q. Who lives up the hill?

14:19:22 6 A. Tenants.

14:19:23 7 Q. Who owns the land, who owns the property you live  
14:19:26 8 on?

14:19:27 9 A. Omar Brown, Jr.

14:19:28 10 Q. Who is that?

14:19:29 11 A. Raymond's father.

14:19:30 12 Q. Do you pay rent?

14:19:32 13 A. No, I don't.

14:19:34 14 Q. You live for free?

14:19:36 15 A. My boyfriend is the one that provides, but I do  
14:19:39 16 help.

14:19:39 17 Q. So your boyfriend, the defendant, pays the rent?

14:19:42 18 A. Correct.

14:19:43 19 Q. How long did he live there?

14:19:45 20 A. Excuse me?

14:19:47 21 Q. How long have you lived there?

14:19:48 22 A. I've lived there for eight years now.

14:19:50 23 Q. What year was that?

14:19:55 24 A. 2007.

14:19:59 25 Q. Are you a resident of St. Thomas?

14:20:00 1 A. Yes, I am.

14:20:01 2 Q. Why do you have a Florida driver's license?

14:20:04 3 A. Because I used to live in Orlando. That's where I

14:20:07 4 resided before coming back to St. Thomas.

14:20:09 5 Q. So when did you come back from Florida?

14:20:11 6 A. Excuse me?

14:20:12 7 Q. When did you come back from Florida?

14:20:14 8 A. 2007, of July.

14:20:22 9 Q. And you've been here for seven years now?

14:20:24 10 A. Yes, I have.

14:20:25 11 Q. And you still don't have a Virgin Islands' driver's

14:20:28 12 license?

14:20:28 13 A. No, I didn't know that I'm supposed to switch it

14:20:30 14 over. No one ever told me anything.

14:20:32 15 Q. I'm sorry?

14:20:33 16 A. No one ever told me anything about having a

14:20:35 17 stateside license.

14:20:38 18 Q. But you're a resident of St. Thomas, right?

14:20:40 19 A. Correct.

14:20:41 20 MR. WATLINGTON: Objection, Your Honor.

14:20:43 21 Objection as to relevancy.

14:20:45 22 THE COURT: All right. Next question.

14:20:53 23 MS. LAKE: I have nothing further.

14:20:55 24 MR. WATLINGTON: Nothing further of this

14:20:56 25 witness, Your Honor.

14:20:58 1 THE COURT: Okay. Ms. Springette. All right.

14:21:02 2 You may step down.

14:21:03 3 Thank you for your testimony.

14:21:09 4 (Witness withdrew from stand.)

14:21:09 5 MR. WATLINGTON: I have nothing further, Your

14:21:10 6 Honor. We would rest.

14:21:11 7 THE COURT: All right. Ladies and gentlemen,

14:21:13 8 the defense, Raymond Brown, rests. That means that all

14:21:18 9 the evidence in this case is now before you.

14:21:22 10 There are a few legal matters that we need to tend

14:21:26 11 to, and then when we resume you will be charged, that

14:21:29 12 is, given the instructions on the law that will guide

14:21:32 13 you as you deliberate, and then you will hear closing

14:21:34 14 arguments.

14:21:35 15 All right. That's going to take us a little bit --

14:21:37 16 a little while. For one group it will be a 25-minute

14:21:47 17 break. For another group it will be perhaps an hour and

14:21:52 18 25 minutes before we get back to you because you will

14:21:54 19 have separate closing arguments. All right. We'll

14:21:57 20 start with Group A first. So for Group A you will have

14:22:01 21 a 25-minute break.

14:22:02 22 For Group B, you will have an hour and 20-minute

14:22:07 23 break or so. All right?

14:22:10 24 Please don't discuss the case. You haven't been

14:22:12 25 charged on the law and you haven't heard the arguments

14:22:15 1 yet. All right. We'll see you in a bit.

14:22:59 2 All right, Counsel, we're going to have the  
14:23:01 3 charging conference in chambers in five minutes. All  
14:23:05 4 rise.

14:23:11 5 (Court in recess, 2:23 p.m.)

14:51:10 6 (After recess, juries present, 3:01 p.m.)

15:01:28 7 THE COURT: Good afternoon again, ladies and  
15:01:30 8 gentlemen.

15:01:30 9 JURY INSTRUCTIONS BY THE COURT

15:01:30 10 THE COURT: Now, as I told you, we're at the  
15:01:32 11 close of the case, so there are some instructions I need  
15:01:35 12 to charge you with.

15:01:37 13 First, I want to thank you for your patience and  
15:01:39 14 your cooperation. I know that counsel appreciates it,  
15:01:43 15 the Court certainly appreciates it. We ask a lot of you  
15:01:46 16 and you've given us everything we've asked for and more,  
15:01:49 17 your attention, your time, your patience, your  
15:01:51 18 cooperation.

15:01:52 19 Now, you may recall that I told you under our  
15:01:55 20 system of criminal justice, the Court, represented by me  
15:01:59 21 as judge, and you, the jury, have different jobs in a  
15:02:01 22 case such as this.

15:02:02 23 I'm responsible for safeguarding both the rights of  
15:02:05 24 the defendant and the interest of the public in the  
15:02:07 25 administration of criminal justice.

15:02:09 1 I preside over the trial to make sure that it is  
15:02:12 2 conducted in accordance with well-established principles  
15:02:15 3 and rules of law. I decide questions of law as they  
15:02:18 4 arise in the trial.

15:02:19 5 I also charge or instruct the jury on the law that  
15:02:22 6 applies to the case, as I'm doing right now.

15:02:25 7 Regarding the facts, on the other hand, you and you  
15:02:27 8 alone are the sole judges of the facts. I do not decide  
15:02:30 9 the facts and you do not decide questions of law.

15:02:33 10 I want you to consider these instructions as a  
15:02:35 11 whole. Do not overemphasize one section over the other.

15:02:40 12 You must ignore any contrary interpretations of the  
15:02:43 13 law that you may have heard in other cases. Just as it  
15:02:46 14 is my job to instruct you on the law that governs this  
15:02:48 15 case, you must accept and follow these instructions.

15:02:51 16 As the judges of the facts, you may not be  
15:02:53 17 concerned with the wisdom of any of these rules of law I  
15:02:56 18 am stating to you.

15:02:57 19 Regardless of any opinion you may have on what the  
15:02:59 20 law ought to be, to base a verdict upon any view of the  
15:03:03 21 law other than what I instruct you would be a violation  
15:03:04 22 of your sworn duty.

15:03:06 23 Questions, objections, statements, arguments and  
15:03:09 24 statements of counsel incorporated in a question are not  
15:03:12 25 evidence in this case. You must entirely disregard any

15:03:16 1 proposed testimony or any proposed exhibit which I did  
15:03:19 2 not admit, and any testimony or exhibit I ordered to be  
15:03:22 3 stricken from the record.

15:03:22 4 You must also disregard anything you may have seen  
15:03:25 5 or heard outside the courtroom. I advise you, if a  
15:03:29 6 particular item of evidence is received for a limited  
15:03:32 7 purpose, you must follow that instruction.

15:03:41 8 Always remember that the defendant is not on trial  
15:03:43 9 for any act or any conduct not specifically charged in  
15:03:46 10 the indictment. In your deliberations, you may consider  
15:03:49 11 only the offenses charged against the defendant in the  
15:03:54 12 indictment, and that is against the defendant that you  
15:03:56 13 are considering with respect to your individual panels.

15:03:59 14 Evidence may be direct or circumstantial. Direct  
15:04:03 15 evidence directly proves a fact, such as testimony of an  
15:04:06 16 eyewitness. Circumstantial evidence indirectly proves a  
15:04:09 17 fact by establishing a chain of facts from which you can  
15:04:12 18 find that another fact exists.

15:04:14 19 From one or more facts you find have been proved,  
15:04:17 20 you can use your reason, experience and common sense to  
15:04:20 21 infer that some other fact exists and has been proved.  
15:04:24 22 You may infer a fact, that is, draw a deduction or a  
15:04:28 23 conclusion from the facts you find have been established  
15:04:30 24 by either direct or even other circumstantial evidence.  
15:04:35 25 This process of drawing inference from facts in evidence

15:04:38 1 is not a matter of guesswork or speculation.

15:04:41 2 I'll give you an example to illustrate the point.

15:04:44 3 You're sitting in here. Assume it was a sunny day when

15:04:47 4 you came in. Now assume that someone walks into the

15:04:51 5 courtroom with an umbrella that is wet and a raincoat

15:04:53 6 that is dripping. You may infer from that

15:04:55 7 circumstantial evidence and conclude that it is now

15:04:58 8 raining outside.

15:05:00 9 The government can rely entirely on circumstantial

15:05:02 10 evidence to prove the elements of any of the crimes

15:05:05 11 charged in the indictment.

15:05:06 12 You are to consider both kinds of evidence, direct

15:05:10 13 and circumstantial. The law permits you to give equal

15:05:13 14 weight to both, but it is for you to decide how much

15:05:15 15 weight to give to any evidence.

15:05:17 16 The indictment is but a formal method of accusing a

15:05:22 17 defendant of a crime. It is not evidence of any kind

15:05:24 18 against the accused. It may not be considered by you as

15:05:26 19 any evidence of the guilt of the defendant.

15:05:28 20 By their pleas of not guilty, each defendant denies

15:05:33 21 that they are guilty of the charges in the indictment.

15:05:38 22 There's nothing particularly different in the way

15:05:41 23 that a jury should consider the evidence in a trial from

15:05:44 24 that in which any reasonable and careful person would

15:05:46 25 treat any very important question that must be resolved

15:05:50 1 by examining facts and evidence.

15:05:51 2 You are expected to use your good sense in

15:05:53 3 considering evaluating the evidence in the case, for

15:05:57 4 only those purposes for which it has been admitted, and

15:05:59 5 to give such evidence a reasonable and fair construction

15:06:01 6 in the light of your common knowledge of the natural

15:06:04 7 tendencies and inclinations of human beings.

15:06:07 8 If the government proves the defendant is guilty

15:06:09 9 beyond a reasonable doubt, say so. If the government

15:06:12 10 fails to prove the defendant is guilty beyond a

15:06:15 11 reasonable doubt, say so.

15:06:18 12 The government and the defendants have agreed that

15:06:28 13 Exhibit 80a, like apple, is in fact cocaine, and that it

15:06:33 14 weighs 7,003 grams, or 7.003 kilograms.

15:06:41 15 The government and the defendants also agree that

15:06:44 16 the phone records that were discussed during the

15:06:48 17 testimony of one of the witnesses, that those phone

15:06:51 18 records are authentic.

15:06:54 19 You should treat those stipulations as though they

15:06:57 20 are facts that have been proved. You are not required

15:07:00 21 to do so, however, since you are the sole judges of the

15:07:03 22 facts.

15:07:04 23 An important part of your job will be making

15:07:07 24 judgments about the testimony of the witnesses who

15:07:09 25 testified in this case. You should decide whether you

15:07:11 1 believe what each person had to say and how important  
15:07:14 2 that testimony was.

15:07:15 3 In making that decision, I suggest that you ask  
15:07:20 4 yourselves a few questions:

15:07:21 5 Did the person impress you as honest?

15:07:23 6 Did the person have any particular reason not to  
15:07:25 7 tell the truth?

15:07:26 8 Did the witness have a good memory? Did the

15:07:29 9 witness have the opportunity and ability to observe  
15:07:31 10 accurately the things the witness testified about?

15:07:34 11 Did the witness appear to understand the questions  
15:07:37 12 clearly and answer them directly?

15:07:39 13 Did a witness' testimony differ from the testimony  
15:07:42 14 of other witnesses?

15:07:43 15 These are but a few of the considerations that will  
15:07:46 16 help you determine the accuracy of what each witness  
15:07:48 17 said.

15:07:49 18 The testimony of a witness may be discredited or,  
15:07:52 19 as we sometimes say, impeached by showing that that  
15:07:56 20 witness previously made statements which are different  
15:07:58 21 than or inconsistent with the witness' testimony here in  
15:08:01 22 court.

15:08:01 23 The earlier inconsistent or contradictory  
15:08:07 24 statements are admissible only to impeach the  
15:08:08 25 credibility of the witness, and not to establish the

15:08:10 1 truth of these earlier statements made somewhere earlier  
15:08:13 2 than here during this trial.

15:08:15 3 If you find that a witness knowingly testified  
15:08:17 4 falsely about any important or material matter, you may  
15:08:20 5 distrust the witness' testimony about other matters.  
15:08:23 6 You may reject all of the testimony of that witness or  
15:08:26 7 give it such weight or credibility that you conclude it  
15:08:29 8 deserves.

15:08:32 9 In making up your minds and reaching a verdict, do  
15:08:36 10 not make any decisions simply because there were more  
15:08:39 11 witnesses on one side than the other.

15:08:40 12 You must treat all witnesses alike. That is, do  
15:08:55 13 not give greater consideration to a government witness  
15:08:58 14 than to a defense witness, if any was offered. Your job  
15:09:09 15 is to think about the testimony of each witness you  
15:09:11 16 heard and decide how much you believe of what the  
15:09:13 17 witness had to say.

15:09:15 18 You've heard the testimony of law enforcement  
15:09:17 19 officials. The fact that a witness may be employed by  
15:09:19 20 the government as a law enforcement official does not  
15:09:22 21 mean that his or her testimony is necessarily deserving  
15:09:25 22 of more or less consideration or greater or lesser  
15:09:29 23 weight than that of an ordinary witness.

15:09:31 24 At the same time, it is quite legitimate for  
15:09:34 25 defense counsel to try to attack the credibility of law

15:09:37 1 enforcement witnesses on the grounds that their  
15:09:38 2 testimony may be colored by a personal or professional  
15:09:41 3 interest in the outcome of the case.

15:09:43 4 It is your decision, after reviewing all the  
15:09:46 5 evidence, whether to accept the testimony of the law  
15:09:48 6 enforcement witnesses and to give to that testimony  
15:09:50 7 whatever weight, if any, you find it deserves.

15:09:53 8 You've heard the testimony from some witnesses who  
15:09:57 9 either received benefits from the government in  
15:09:58 10 connection with this case or were involved in the  
15:10:01 11 commission of the offenses related to the crimes alleged  
15:10:04 12 against the defendants.

15:10:05 13 You may give the testimony of those witnesses such  
15:10:08 14 weight you feel it deserves, keeping in mind that such  
15:10:19 15 testimony must be considered with greater caution and  
15:10:21 16 care than that of an ordinary witness.

15:10:26 17 You are instructed that an attorney is allowed, if  
15:10:29 18 the witness agrees, to talk to a witness to learn what  
15:10:33 19 testimony will be given. Under certain circumstances it  
15:10:36 20 is not only proper, but it may be the duty of the  
15:10:38 21 prosecutor and defense counsel to interview any person  
15:10:42 22 who may be called as a witness in the case.

15:10:44 23 The fact that a witness has been interviewed by an  
15:10:47 24 attorney does not, by itself, affect the credibility of  
15:10:49 25 the witness.

15:10:54 1            Each of the defendants, Raymond Brown and Walter  
15:10:57 2            Hill, chose not to testify in this case.

15:11:00 3            Under our Constitution the defendant has no  
15:11:02 4            obligation to testify or to present any evidence,  
15:11:05 5            because it is the government's burden to prove the  
15:11:07 6            defendant's guilt beyond a reasonable doubt.

15:11:10 7            That burden never -- that burden remains with the  
15:11:13 8            government throughout the entire trial and never shifts  
15:11:15 9            to the defendant.

15:11:15 10           The defendant is not required to prove that he is  
15:11:18 11           not guilty. You cannot use the fact that the defendant  
15:11:22 12           chose not to testify against that defendant in any way.

15:11:25 13           As I mentioned before, each defendant is presumed  
15:11:27 14           to be innocent until he is proved to be guilty. Thus, a  
15:11:30 15           defendant, although charged by the indictment, begins  
15:11:33 16           the trial with no evidence against him. This  
15:11:37 17           presumption of innocence continues until overcome by  
15:11:40 18           evidence that establishes guilt to your satisfaction  
15:11:42 19           beyond a reasonable doubt.

15:11:43 20           The burden of proving beyond a reasonable doubt  
15:11:46 21           each and every essential element of the crimes charged  
15:11:48 22           is upon the government and always upon the government.  
15:11:56 23           The law never imposes upon a defendant the burden or  
15:11:58 24           duty of calling any witnesses or producing any evidence.

15:12:01 25           If you have a reasonable doubt about whether the

15:12:04 1 defendant is guilty, you must find the defendant not  
15:12:07 2 guilty.

15:12:07 3 A separate crime is alleged against each defendant  
15:12:11 4 in each count of the indictment. Each count and the  
15:12:15 5 evidence pertaining to it should be considered  
15:12:17 6 separately. The case of each defendant should be  
15:12:20 7 considered separately and individually.

15:12:29 8 The fact that you may find one defendant guilty or  
15:12:32 9 not guilty of any crime charged should not control your  
15:12:36 10 verdict as to any other crime charged against that  
15:12:42 11 defendant.

15:12:42 12 You must give separate consideration to the  
15:12:44 13 evidence as to each charge.

15:12:49 14 A reasonable doubt is a term often used, probably  
15:12:51 15 well understood, but not easily defined.

15:12:53 16 Reasonable doubt is what the term implies. A  
15:12:55 17 reasonable doubt is a fair doubt, based upon reason and  
15:12:58 18 common sense.

15:12:59 19 The government's evidence must be proof of such a  
15:13:01 20 convincing character that you would be willing to rely  
15:13:04 21 and act upon it unhesitatingly in the most important of  
15:13:08 22 your own affairs.

15:13:09 23 The doubt must be reasonable. It is not a mere  
15:13:12 24 possible or imaginary doubt, because as you well know,  
15:13:15 25 anything and everything relating to human affairs and

15:13:18 1 depending on oral testimony is open to some possible or  
15:13:21 2 imaginary doubt.

15:13:22 3 The government is not required to produce evidence  
15:13:24 4 that will exclude every possibility of the defendant's  
15:13:28 5 innocence. It is only required to prove a defendant's  
15:13:31 6 guilt beyond a reasonable doubt, not beyond all possible  
15:13:34 7 doubt. The test is one of reasonable doubt.

15:13:36 8 The defendant is never to be convicted on mere  
15:13:39 9 speculation, suspicion or conjecture, or indeed on proof  
15:13:43 10 that is less than beyond a reasonable doubt.

15:13:44 11 Reasonable doubt may arise from a lack of credible  
15:13:48 12 evidence or proof. If you find that the government has  
15:13:50 13 failed to produce evidence sufficient to satisfy you of  
15:13:53 14 the guilt of the defendant beyond a reasonable doubt,  
15:13:55 15 then that defendant is entitled to an acquittal or a  
15:13:58 16 verdict of not guilty.

15:14:00 17 But if, after considering all of the evidence and  
15:14:03 18 giving the accused the benefit of the reasonable doubt,  
15:14:05 19 you are led to the conclusion that the defendant is  
15:14:07 20 guilty, you should so declare by your verdict.

15:14:09 21 The crimes charged in this case are serious crimes  
15:14:13 22 which require proof of the defendant's mental state or  
15:14:17 23 intent before he can be convicted. To establish mental  
15:14:20 24 state or intent, the government must prove that the  
15:14:22 25 defendant's actions were knowingly and intentionally

15:14:25 1 done.

15:14:25 2 The government is not required to prove that the  
15:14:27 3 defendant knew that he was breaking the law when he did  
15:14:30 4 the acts charged in the indictment. You may determine  
15:14:33 5 his mental state or intent from all the facts and  
15:14:35 6 circumstances surrounding the case.

15:14:41 7 State of mind or knowledge ordinarily may only be  
15:14:44 8 proved indirectly, that is, by circumstantial evidence,  
15:14:47 9 because there's no way we can get inside to observe the  
15:14:50 10 operations of the human mind.

15:14:52 11 While witnesses may be able to give direct evidence  
15:14:55 12 of what the defendant said or did or failed to say or  
15:14:58 13 do, there can be no eyewitness account of a state of a  
15:15:01 14 person's mind at the time an act was done. But what a  
15:15:04 15 person does, says, or fails to say or do may indicate  
15:15:08 16 the state of mind in which the person did the act.

15:15:11 17 Although you're not required to do so, you may  
15:15:13 18 reasonably infer that a person ordinarily intends the  
15:15:15 19 natural and probable consequences of his or her own  
15:15:18 20 knowing and conscious acts.

15:15:20 21 As the judges of the facts, you may draw the  
15:15:22 22 inference that the defendant knew and intended all the  
15:15:25 23 consequences which someone in similar circumstances and  
15:15:27 24 having the same or similar knowledge should reasonably  
15:15:30 25 have expected to result from their intentional act or

15:15:33 1 conscious omission.

15:15:35 2 You can consider any such inference in determining  
15:15:38 3 whether the government has proved beyond a reasonable  
15:15:40 4 doubt that the defendant possessed the required criminal  
15:15:43 5 intent or state of mind.

15:15:44 6 Unless otherwise instructed, in determining the  
15:15:48 7 issue of state of mind of a defendant, you can consider  
15:15:51 8 any statements made and acts done by him, as well as  
15:15:54 9 other facts, inferences and circumstances in evidence  
15:15:57 10 which indicate the defendant's state of mind or intent.

15:16:00 11 The term "knowingly" as used in these instructions  
15:16:04 12 describes the state of mind of the defendant. It means  
15:16:06 13 that the defendant was conscious and aware of the  
15:16:08 14 defendant's actions. Whether or not a defendant had  
15:16:11 15 this knowledge is a question of fact to be determined by  
15:16:13 16 you on the basis of all the evidence.

15:16:15 17 An act is done knowingly only if it is done  
15:16:18 18 purposely and deliberately and not because of accident,  
15:16:21 19 mistake, negligence, or other innocent reason.

15:16:24 20 You can consider any statements made and acts done  
15:16:27 21 or omitted by a defendant, as well as other facts,  
15:16:31 22 inferences and circumstances in evidence which indicate  
15:16:35 23 the defendant acted knowingly.

15:16:36 24 In determining whether the government has met its  
15:16:44 25 burden of proving the defendant's guilty beyond a

15:16:48 1 reasonable doubt, you are only to consider the offenses  
15:16:50 2 charged as to the defendant. In assisting you in  
15:16:57 3 reaching your determination I'll instruct you on the  
15:17:01 4 elements of the offenses charged.

15:17:02 5 Counts 1 and 37 each charge that a defendant agreed  
15:17:07 6 or conspired with one or more other persons to possess  
15:17:09 7 with intent to distribute a controlled substance, which  
15:17:12 8 is a violation of federal law.

15:17:14 9 In order to sustain its burden of proof for the  
15:17:17 10 crime of conspiracy to possess with intent to distribute  
15:17:19 11 a controlled substance, the government must prove the  
15:17:23 12 following three essential elements beyond a reasonable  
15:17:26 13 doubt:

15:17:26 14 First, that two or more persons agreed to possess  
15:17:46 15 with the intent to distribute a controlled substance.

15:17:49 16 Second, that the defendant was a party to or member  
15:17:52 17 of that agreement.

15:17:53 18 And third, that the defendant joined the agreement  
15:17:56 19 or conspiracy knowing of its objective to possess with  
15:17:59 20 the intent to distribute a controlled substance, and  
15:18:03 21 intending to join together with at least one other  
15:18:06 22 alleged conspirator to achieve that objective; that is,  
15:18:10 23 that the defendant and at least one other alleged  
15:18:12 24 conspirator shared a unity of purpose and the intent to  
15:18:16 25 achieve that objective.

15:18:17 1 If you are convinced that each element has been  
15:18:19 2 proved beyond a reasonable doubt for a particular  
15:18:22 3 defendant with respect to a specific count, then it is  
15:18:25 4 your duty to return a verdict of guilty as to that  
15:18:28 5 defendant on that count.

15:18:29 6 However, if you have a reasonable doubt as to any  
15:18:32 7 of these elements with respect to a particular count and  
15:18:35 8 a particular defendant, then it is your duty to return a  
15:18:38 9 verdict of not guilty as to that defendant on that  
15:18:40 10 count.

15:18:40 11 A criminal conspiracy is an agreement or a mutual  
15:18:45 12 understanding knowingly and intentionally made or  
15:18:49 13 knowingly and intentionally entered into by at least two  
15:18:52 14 people to violate the law by some joint or common plan  
15:18:56 15 or course of action.

15:18:57 16 A conspiracy is, in a very true sense, a  
15:19:02 17 partnership in crime. The crime is the agreement or  
15:19:06 18 understanding to do something unlawful. It does not  
15:19:20 19 matter whether the objectives of the conspiracy occurred  
15:19:24 20 or not -- excuse me. I don't think I can do this with a  
15:19:46 21 mint in my mouth.

15:20:11 22 (Pause)

15:20:11 23 THE COURT: Let me read that section again.

15:20:13 24 The crime is the agreement or understanding to do  
15:20:15 25 something unlawful. It does not matter whether the

15:20:17 1 objectives of the conspiracy occurred or not, or whether  
15:20:19 2 the members of the conspiracy were successful in  
15:20:22 3 achieving any or all of the objectives of the  
15:20:25 4 conspiracy.

15:20:26 5 A conspiracy or agreement to violate the law, like  
15:20:29 6 any other kind of agreement or understanding, need not  
15:20:31 7 be formal, written or even expressed directly or in  
15:20:35 8 every detail. To prove the existence of a conspiracy.

15:21:59 9 (Pause.)

15:22:01 10 MR. WATLINGTON: Sorry, Judge. Sorry, ladies  
15:22:05 11 and gentlemen.

15:22:53 12 (Pause.)

15:22:53 13 THE COURT: I think that gave me a chance to  
15:22:55 14 find my voice again.

15:22:57 15 All right. A conspiracy or agreement to violate  
15:22:59 16 the law, like any other kind of agreement or  
15:23:01 17 understanding, need not be formal, written or even  
15:23:04 18 expressed directly in every detail.

15:23:06 19 To prove the existence of a conspiracy or an  
15:23:08 20 illegal agreement, the government is not required to  
15:23:10 21 produce a written contract between the parties or even  
15:23:13 22 produce evidence of an express oral agreement spelling  
15:23:16 23 out of the details of the understanding.

15:23:18 24 To prove that a conspiracy existed, moreover, the  
15:23:22 25 government is not required to show that all of the

15:23:24 1 members of the alleged conspiracy were named or charged,  
15:23:27 2 or that all of the people who the evidence shows were  
15:23:29 3 actual members of a conspiracy agreed to all of the  
15:23:32 4 means or methods set out in the indictment.

15:23:35 5 You may infer the existence of a conspiracy from  
15:23:37 6 the circumstances of the case and the conduct of the  
15:23:41 7 parties involved. In a very real sense in the context  
15:23:45 8 of conspiracy cases, actions often speak louder than  
15:23:51 9 words, and you may, in determining whether an agreement  
15:23:54 10 existed here, consider the actions and statements of all  
15:23:57 11 those you find to be participants as proof that a common  
15:24:02 12 design existed --

15:24:11 13 Ma'am, you have to leave.

15:24:23 14 -- that a common design existed on their part to  
15:24:25 15 act together for an accomplishment of an unlawful  
15:24:29 16 purpose.

15:24:29 17 The government must prove that two or more persons  
15:24:31 18 knowingly and intentionally arrived at some type of  
15:24:35 19 agreement or understanding that they would violate the  
15:24:36 20 law by means of some common plan or course of action as  
15:24:40 21 alleged in Count 1 of the indictment.

15:24:42 22 It is proof of this conscious understanding and  
15:24:45 23 knowing agreement by the alleged members that should be  
15:24:48 24 central to your consideration of the charge of  
15:24:52 25 conspiracy.

15:24:53 1 Before the jury may find that any defendant or any  
15:24:55 2 other person became a member of the conspiracy charged  
15:24:58 3 in the indictment, the evidence in the case must show  
15:25:01 4 beyond a reasonable doubt that the defendant knew the  
15:25:02 5 purpose or goal of the agreement or understanding and  
15:25:06 6 deliberately entered into the agreement, intending in  
15:25:08 7 some way to accomplish the goal or purpose of this  
15:25:12 8 common plan or action.

15:25:13 9 In order to find a defendant guilty of the crime,  
15:25:16 10 the government must prove beyond a reasonable doubt that  
15:25:19 11 in addition to being present or knowing about the crime  
15:25:21 12 charged in the indictment, the defendant knowingly  
15:25:23 13 associated himself with the crime charged in some way as  
15:25:26 14 a participant, someone who wanted the crime to be  
15:25:30 15 committed, not as a mere spectator.

15:25:32 16 Merely associating with others and discussing  
15:25:34 17 common goals, mere similarity of conduct between or  
15:25:39 18 among such persons, merely being present at a place  
15:25:42 19 where a crime takes place or is discussed, or even  
15:25:44 20 knowing about criminal conduct does not, of itself, make  
15:25:47 21 someone a member of a conspiracy or a conspirator.

15:25:51 22 If the evidence establishes beyond a reasonable  
15:25:53 23 doubt that the defendant knowingly and intentionally  
15:25:56 24 entered into an agreement, the fact that the other, that  
15:26:00 25 any other defendants did not join the agreement at its

15:26:04 1 beginning or did not know all of the details of the  
15:26:07 2 agreement, or did not participate in each of the acts of  
15:26:10 3 the agreement, or did not play a major role in  
15:26:13 4 accomplishing the unlawful goal, is not important to  
15:26:15 5 your decision regarding membership in the conspiracy.

15:26:18 6 Once you've decided that the defendant was a member  
15:26:21 7 of a conspiracy, that defendant is responsible for what  
15:26:24 8 other conspirators said or did to carry out the  
15:26:29 9 conspiracy, whether or not that defendant knew what they  
15:26:31 10 said or did.

15:26:32 11 The extent of a defendant's respective  
15:26:35 12 participation has nothing to do with the issue of guilt.  
15:26:38 13 A conspirator's guilt is not measured by the extent he  
15:26:41 14 participated or the length of time he took part in the  
15:26:44 15 conspiracy.

15:26:44 16 Indeed, each member may perform separate and  
15:26:47 17 distinct acts and may do them at different times as the  
15:26:51 18 conspiracy is carried out. An equal role is not what  
15:26:54 19 the law requires.

15:26:55 20 In fact, even a single act may be enough to make a  
15:26:59 21 defendant a member of a conspiracy. Thus, it is no  
15:27:02 22 defense that a defendant's participation in a conspiracy  
15:27:04 23 was a minor one or only for a short period of time.

15:27:09 24 Count 38 charges that Walter Hill possessed with  
15:27:12 25 the intent to distribute a controlled substance, which

15:27:16 1 is a violation of federal law.

15:27:17 2 In order to sustain its burden of proof for the  
15:27:19 3 crime of possession with intent to distribute, the  
15:27:22 4 government must prove the following essential elements  
15:27:25 5 beyond a reasonable doubt:

15:27:26 6 First, that the defendant possessed the controlled  
15:27:30 7 substance described in the indictment.

15:27:31 8 Second, that the defendant knew that this substance  
15:27:33 9 was a controlled substance.

15:27:33 10 And third, that the defendant intended to  
15:27:36 11 distribute the controlled substance.

15:27:37 12 If you're convinced that each of the elements for  
15:27:40 13 possession with intent to distribute a controlled  
15:27:44 14 substance has been proved beyond a reasonable doubt for  
15:27:45 15 a particular defendant with respect to this count, then  
15:27:48 16 it is your duty to return a verdict of guilty as to that  
15:27:51 17 particular defendant on this count.

15:27:55 18 However, if you have a reasonable doubt as to any  
15:27:57 19 of these elements with respect to this count, then it is  
15:28:03 20 your duty to return a verdict of not guilty as to the  
15:28:06 21 defendant on this count.

15:28:07 22 The term "to possess" means to exercise control or  
15:28:09 23 authority over something at a given time. There's  
15:28:13 24 several types of possession: Constructive, sole and  
15:28:16 25 joint.

15:28:16 1 The possession is considered to be actual when a  
15:28:18 2 person knowingly has direct physical control or  
15:28:21 3 authority over something. Possession is called  
15:28:23 4 constructive when a person does not have direct physical  
15:28:26 5 control over something, but can knowingly control it and  
15:28:29 6 intends to control it, sometimes through another person.  
15:28:32 7 Possession may be knowingly exercised by one person  
15:28:35 8 exclusively, which is sole possession, or possession may  
15:28:39 9 be knowingly exercised jointly when it is shared by two  
15:28:43 10 or more persons.  
15:28:45 11 The phrase "with intent to distribute" means to  
15:28:47 12 have in mind or to plan in some way to deliver or to  
15:28:50 13 transfer possession or control over a thing to someone  
15:28:54 14 else.  
15:28:55 15 In attempting to determine the intent of the  
15:28:57 16 defendant, you may take into consideration all the facts  
15:29:01 17 and circumstances shown by the evidence received in the  
15:29:05 18 case concerning a particular defendant.  
15:29:06 19 In determining a person's intent to distribute  
15:29:11 20 controlled substances, you may consider among other  
15:29:13 21 things the purity of the controlled substance, the  
15:29:16 22 quantity of the controlled substance, the presence of  
15:29:18 23 equipment used in the processing or sale of controlled  
15:29:20 24 substance, and large amounts of cash.  
15:29:22 25 The government must prove beyond a reasonable doubt

15:29:24 1 the intent to distribute as alleged in the indictment.

15:29:28 2 The evidence in the case need not prove the actual  
15:29:32 3 amount of the controlled substance alleged in the  
15:29:34 4 indictment. The government must prove beyond a  
15:29:37 5 reasonable doubt, however, that a measurable amount of  
15:29:39 6 the controlled substance alleged in the relevant count  
15:29:42 7 of the indictment that you are considering was in fact  
15:29:44 8 involved.

15:29:44 9 It is not necessary for the government to prove  
15:29:47 10 that the defendant knew the precise nature of the  
15:29:49 11 controlled substance that was the object of the  
15:29:51 12 conspiracy to possess with intent to distribute. The  
15:29:57 13 government must prove beyond a reasonable doubt,  
15:29:59 14 however, that the defendant did know that some type of  
15:30:02 15 controlled substance was the object of the conspiracy or  
15:30:04 16 was possessed with the intent to distribute.

15:30:09 17 In Count 38, the defendant is charged with aiding  
15:30:12 18 and abetting in the commission of the offense charged in  
15:30:16 19 that count. A person may violate the law even though he  
15:30:21 20 does not personally do each and every act constituting  
15:30:25 21 the offense, if that person aided and abetted the  
15:30:30 22 commission of the offense.

15:30:31 23 Before a defendant may be held responsible for  
15:30:33 24 aiding and abetting others in the commission of a crime,  
15:30:36 25 it is necessary that the government prove beyond a

15:30:39 1 reasonable doubt that the defendant knowingly and  
15:30:41 2 deliberately associated himself in some way with the  
15:30:44 3 crime charged, and participated in it with the intent to  
15:30:47 4 commit the crime.

15:30:48 5 In order to be found guilty of aiding and abetting  
15:30:51 6 the commission of the crimes charged in Count 38 of the  
15:30:55 7 indictment, the government must prove beyond a  
15:30:55 8 reasonable doubt:

15:30:58 9 First, the defendant knew that the crime charged  
15:31:01 10 was to be committed or was being committed.

15:31:03 11 Second, that the defendant knowingly did some act  
15:31:06 12 for the purpose of furthering the commission of the  
15:31:08 13 crime.

15:31:09 14 Third, that the defendant acted with the intention  
15:31:11 15 of causing the crime charged to be committed.

15:31:13 16 And fourth, that someone committed each of the  
15:31:17 17 essential elements of the offense charged.

15:31:18 18 Merely being present at the scene of the crime or  
15:31:20 19 merely knowing that a crime is being committed or is  
15:31:23 20 about to be committed is not sufficient conduct for you  
15:31:25 21 to find that a defendant aided and abetted the  
15:31:28 22 commission of a crime.

15:31:29 23 The government must prove that the defendant  
15:31:32 24 knowingly associated himself with the crime in some way  
15:31:35 25 as the participant, not as a mere spectator.

15:31:39 1 Counts 4, 5, 6, 7, 8, 9, 10 and 42 charge that a  
15:31:46 2 defendant used a telephone to commit or facilitate the  
15:31:49 3 commission of an act or acts constituting a drug  
15:31:52 4 trafficking felony, which is a violation of federal law.  
15:31:55 5 In order to sustain its burden of proof for the  
15:31:57 6 crime of using a communication facility as charged in  
15:32:02 7 the indictment, the government must prove the following  
15:32:05 8 two essential elements beyond a reasonable doubt:  
15:32:06 9 First, that the defendant knowingly used a  
15:32:09 10 communication facility.  
15:32:11 11 And second, that the defendant used the  
15:32:14 12 communication facility with the intent to commit or  
15:32:16 13 facilitate the commission of an illegal act involving  
15:32:19 14 drugs.  
15:32:19 15 If you are convinced that the elements for use of a  
15:32:23 16 communication facility to cause or facilitate a drug  
15:32:26 17 crime have been proved beyond a reasonable doubt for a  
15:32:29 18 particular defendant with respect to a specific count,  
15:32:32 19 then it is your duty to return a verdict of guilty as to  
15:32:34 20 that defendant on that count.  
15:32:36 21 However, if you have a reasonable doubt as to any  
15:32:38 22 of these elements with respect to a particular count and  
15:32:41 23 a particular defendant, then it is your duty to return a  
15:32:45 24 verdict of not guilty as to that defendant on that  
15:32:47 25 count.

15:32:47 1 The term "communication facility" as used in these  
15:32:58 2 instructions means the telephone, radio, wire or any  
15:33:03 3 other public or private means of communication.

15:33:06 4 The term "facilitate in the commission" as used in  
15:33:10 5 these instructions means to assist or help someone to do  
15:33:12 6 something, or in some way make the task less difficult  
15:33:17 7 to accomplish.

15:33:21 8 All right. We'll now have the closing argument.

15:33:25 9 We will start with the closing argument for the Group A  
15:33:30 10 panel.

15:33:30 11 So Group B, you will be returned to the  
15:33:34 12 deliberation room, and then we'll have your closing  
15:33:36 13 argument after these closing arguments.

15:33:38 14 So Group B, you can proceed to the deliberation  
15:33:41 15 room.

15:33:42 16 (Jury B panel not present)

15:34:33 17 THE COURT: Let me see counsel briefly.

15:34:50 18 (Sidebar discussion held as follows:)

15:34:57 19 THE COURT: We're going to move these tables  
15:34:59 20 out of here. That's what we're waiting for, because the  
15:35:02 21 tables need to go downstairs, because Group A, after  
15:35:08 22 this, will be deliberating downstairs. These are their  
15:35:12 23 deliberation tables. So hopefully someone will come in  
15:35:14 24 here, whip them out, and then we'll start.

15:35:18 25 MR. WATLINGTON: So we'll take a break.

15:35:19 1 THE COURT: No, not take a break. It will  
15:35:23 2 happen just as we're here.  
15:35:23 3 (Pause.)  
15:35:47 4 Let me see counsel briefly again.  
15:36:00 5 Attorney Mingolla?  
15:36:02 6 MR. MINGOLLA: Sir? Sorry.  
15:36:11 7 THE COURT: Is the cocaine closed up?  
15:36:13 8 MS. LAKE: I believe so.  
15:36:15 9 THE COURT: I react to it the minute it's  
15:36:18 10 opened. And I know it was supposed to be sealed. And  
15:36:20 11 it affects my throat in the worst way. So if it's not  
15:36:25 12 taped, then wrapped in plastic, it's going to be a  
15:36:27 13 constant bother. It might already be in the air for me.  
15:36:35 14 MS. LAKE: It was inside of plastic bags.  
15:36:37 15 THE COURT: It doesn't matter. Once they  
15:36:40 16 unseal it my throat goes to the toilet. So...  
15:36:46 17 MS. LAKE: I can check to see if they've taped  
15:36:49 18 it up.  
15:36:49 19 THE COURT: Yes. Why don't we see if someone  
15:36:52 20 can tape it up.  
15:36:54 21 (End of sidebar, open court as follows:)  
15:37:14 22 THE COURT: All right. We'll now have the  
15:37:15 23 closing argument from the government.  
15:37:20 24 Attorney Lake?  
15:37:21 25 MS. LAKE: Yes, Your Honor. Thank you.

15:37:21 1 CLOSING ARGUMENT BY THE GOVERNMENT (Re Def. Brown)

15:37:28 2 MS. LAKE: Good afternoon, ladies and  
15:37:30 3 gentlemen.

15:37:30 4 As you know, Raymond Brown has been charged with  
15:37:34 5 conspiracy to possess with intent to distribute cocaine.  
15:37:39 6 He has also been charged with using a telephone to  
15:37:42 7 commit those crimes.

15:37:44 8 Now, the judge has instructed you on the law. And  
15:37:48 9 those are the instructions that you will follow in your  
15:37:50 10 deliberation.

15:37:51 11 And as the judge instructed you, conspiracy, the  
15:37:55 12 crime of conspiracy, the crime is the agreement. That's  
15:38:01 13 all the government must prove, the agreement.

15:38:05 14 So what's the evidence presented before you?

15:38:08 15 You heard from Roberto Tapia, you heard from Angel  
15:38:18 16 Negron Beltran, also known as Pee Wee.

15:38:20 17 What is the evidence that you have?

15:38:21 18 You have Roberto Tapia testifying and telling you  
15:38:24 19 that he and the Defendant Raymond Brown conspired and  
15:38:28 20 agreed to distribute 24 kilograms of cocaine.

15:38:34 21 What else do you have?

15:38:36 22 You have telephone calls explaining the agreement,  
15:38:41 23 the conspiracy, the agreement to distribute 24 kilograms  
15:38:46 24 of cocaine.

15:38:47 25 What else do we know?

15:38:50 1 We know that the Defendant Raymond Brown is also  
15:38:53 2 known as La Catora. You heard that from Roberto Tapia.  
15:38:59 3 You heard that from Angel Negron.  
15:39:03 4 What else do we know?  
15:39:04 5 We know, you heard from Angel Negron Beltran. He  
15:39:12 6 testified he knows the Defendant Raymond Brown. He has  
15:39:14 7 met him before. He knows him as La Catora.  
15:39:17 8 You heard from Roberto Tapia, the three of them  
15:39:20 9 agreed to distribute two kilograms of cocaine.  
15:39:23 10 The Defendant Raymond Brown supplied to Roberto  
15:39:28 11 Tapia two kilograms of cocaine, that Roberto Tapia then  
15:39:34 12 gave to Pee Wee, Angel Negron.  
15:39:40 13 What else do we know?  
15:39:42 14 We know that Defendant Raymond Brown and Pee Wee  
15:39:45 15 arranged to meet to discuss the price of those  
15:39:47 16 two kilograms.  
15:39:48 17 How do we know this?  
15:39:50 18 You know it from the testimony of the witnesses,  
15:39:52 19 and you know it from the phone calls. You know beyond a  
15:39:57 20 reasonable doubt that the defendant is guilty of  
15:39:59 21 conspiring to distribute two counts -- two separate drug  
15:40:05 22 deals, 24 kilograms of cocaine, 24 kilograms of cocaine,  
15:40:11 23 and on a separate incident, 2 kilograms of cocaine.  
15:40:14 24 So let's listen to those phone calls.  
15:40:16 25 The first one, Government's Exhibit 12.

15:40:41 1 (Exhibit published.)

15:41:06 2 So what else do you know?

15:41:07 3 You know that Roberto Tapia and Raymond Brown were

15:41:10 4 discussing the price of cocaine. The price in Puerto

15:41:17 5 Rico dropped to 22. The price dropped down.

15:41:19 6 Raymond Brown, you have to go lower on the price

15:41:22 7 and we're going to get this deal done. We need to get

15:41:25 8 this 24-kilo deal done. That's what you know.

15:41:27 9 Let's play Exhibit Number 14.

15:41:54 10 (Exhibit published.)

15:42:09 11 What else do you know?

15:42:10 12 In that phone call alone you know that the

15:42:13 13 Defendant Raymond Brown and Roberto Tapia agree on

15:42:17 14 24 kilos.

15:42:18 15 What else do you know?

15:42:20 16 You know that Roberto Tapia told Raymond Brown:

15:42:24 17 I'm going to get the money tomorrow.

15:42:27 18 That is the agreement. That is the conspiracy.

15:42:30 19 That is the distribution of 24 kilograms of cocaine.

15:42:36 20 That's what you know. We know that the Defendant

15:42:39 21 Raymond Brown is a drug dealer. We know that.

15:42:44 22 And finally, Government's Exhibit 16.

15:42:51 23 (Exhibit published.)

15:43:00 24 In this phone call, what do we know?

15:43:02 25 Roberto Tapia testified. Raymond Brown called him.

15:43:06 1 They agreed to meet at Cape Air. And they did meet, and  
15:43:09 2 they had a conversation. And Raymond Brown told him the  
15:43:13 3 24 kilos will be in a car at Market Square.  
15:43:21 4 What else do we know?  
15:43:23 5 Roberto Tapia testified and told you that he went  
15:43:26 6 to that car, just like Raymond Brown told him to.  
15:43:29 7 And what was in that car? 24 kilograms of cocaine.  
15:43:33 8 What else do we know?  
15:43:34 9 Roberto Tapia put the money inside, took the  
15:43:37 10 24 kilograms of cocaine that Raymond Brown left him, and  
15:43:41 11 he finished the deal.  
15:43:44 12 So what do we know?  
15:43:46 13 We know that Raymond Brown is guilty. We know that  
15:43:49 14 he is a drug dealer and we know that he's guilty of  
15:43:52 15 conspiring and agreeing to distribute 24 kilograms of  
15:43:55 16 cocaine.  
15:43:55 17 We know he used his telephone to commit those  
15:43:59 18 crimes.  
15:43:59 19 So what else do we know?  
15:44:02 20 Aside from the fact that the Defendant Raymond  
15:44:05 21 Brown is a drug dealer, what else do we know?  
15:44:08 22 We know that he conspired and agreed to distribute  
15:44:11 23 two additional kilograms on a separate occasion.  
15:44:15 24 Let's play Government's Exhibit 31.  
15:45:03 25 (Exhibit published.)

15:45:07 1 So what did Roberto Tapia tell us regarding this  
15:45:11 2 phone call? That he and the Defendant Raymond Brown, La  
15:45:16 3 Catora, agreed that the Defendant Raymond Brown would  
15:45:19 4 provide two kilograms, and that Raymond called and asked  
15:45:22 5 for them back. "I need those two applications back,"  
15:45:27 6 because he had another buyer.

15:45:29 7 And what did Roberto Tapia say?

15:45:32 8 "Okay. I'll get you those subscriptions back."

15:45:36 9 Applications, subscriptions, it's all drugs. You  
15:45:39 10 heard from Roberto Tapia. It's two kilograms of  
15:45:43 11 cocaine.

15:45:43 12 He gave it to Roberto Tapia, and then he asked for  
15:45:46 13 them back. And then he gave them right back to him.  
15:45:49 14 And he provided those two kilograms to Angel  
15:45:55 15 Negron-Beltran, that we know is Pee Wee. That's what we  
15:45:57 16 know. And he is a drug dealer.

15:45:59 17 And finally, Government's Exhibits 53a and b.  
15:46:22 18 (Exhibit published)

15:49:02 19 What else do you know?

15:49:05 20 You heard from Robert to Tapia and Angel Negron  
15:49:10 21 Beltran, they both testified, La Catora, the Defendant  
15:49:14 22 Raymond Brown, supplied, provided those two kilograms of  
15:49:17 23 cocaine. He gave them to Roberto Tapia.

15:49:20 24 Roberto Tapia gave them to Angel Negron-Beltran,  
15:49:25 25 and that the defendant would contact him, like you saw

15:49:28 1 on the phone call, like you heard in the testimony, the  
15:49:31 2 defendant "will contact you. You two negotiate the  
15:49:34 3 price."

15:49:35 4 What do we know? We know that the defendant is  
15:49:39 5 guilty. We know that there was an agreement. We knew  
15:49:44 6 that -- we know that he had a unity of purpose. They  
15:49:48 7 understood the objectives and that was to distribute and  
15:49:53 8 supply cocaine.

15:49:53 9 We know that the defendant is guilty. We know that  
15:49:56 10 he's a drug dealer because you heard from the people  
15:49:59 11 that he deals drugs with.

15:50:01 12 You heard from Roberto Tapia: Yes, he's a drug  
15:50:04 13 dealer.

15:50:05 14 You heard from Angel Negron Beltran: Yes, he is a  
15:50:10 15 drug dealer.

15:50:11 16 Because that's who you deal drugs with, other drug  
15:50:14 17 dealers. That's who you know. The defendant is a drug  
15:50:18 18 dealer. And we are confident and as you deliberate,  
15:50:22 19 listen to the calls, listen, remember the evidence, the  
15:50:26 20 defendant is guilty of conspiring to distribute  
15:50:31 21 24 kilograms and then 2 kilograms. The Defendant  
15:50:35 22 Raymond Brown used his phone to complete those crimes.  
15:50:39 23 The defendant is guilty and the government is confident  
15:50:43 24 at the end of your deliberations you will come back with  
15:50:45 25 a guilty verdict.

15:50:47 1 Thank you.

15:50:49 2 THE COURT: Thank you, Attorney Lake.

15:50:51 3 Attorney Watlington?

15:51:04 4 MR. WATLINGTON: Good afternoon, Your Honor.

15:51:06 5 THE COURT: Good afternoon.

15:51:08 6 CLOSING ARGUMENT BY DEFENDANT BROWN

15:51:08 7 MR. WATLINGTON: Good afternoon, ladies and

15:51:10 8 gentlemen of the jury.

15:51:10 9 Well, first of all, I would like to thank you for

15:51:12 10 being very attentive and sitting through this process

15:51:15 11 for three days. It's one of the most responsible tasks

15:51:20 12 that citizens have in the United States, judging the

15:51:27 13 guilt or innocence of someone.

15:51:30 14 And that process is the hallmark of our democracy,

15:51:37 15 where people who are considered peers determine facts in

15:51:46 16 terms of what is presented in a forum such as this. So

15:51:52 17 again I thank you.

15:51:55 18 This case isn't about who can say "guilty" the

15:52:00 19 loudest, and how many times you can say "guilty."

15:52:04 20 Actually, only two people determine guilt to any -- or I

15:52:09 21 should say two entities: a jury like you, or a judge.

15:52:15 22 If the judge were the trier of the facts, then he

15:52:17 23 would determine guilt or innocence. However, you are

15:52:21 24 the triers of the facts. You determine what is

15:52:26 25 truthful, what makes sense and what doesn't make sense.

15:52:31 1 And if you evaluate and review the government's case  
15:52:36 2 honestly, fairly and carefully, you have to find that  
15:52:44 3 what you heard is a lot of nonsense.

15:52:48 4 Here is what the government presented to you.

15:52:51 5 They presented to you the testimony of two  
15:52:54 6 convicted drug dealers, one a local former law  
15:53:05 7 enforcement, director of Planning and Natural Resources,  
15:53:10 8 who did not admit on the witness stand that he's been  
15:53:15 9 involved for decades with not only drug running, but  
15:53:21 10 with human trafficking. He said no, he didn't.

15:53:28 11 Here is a drug dealer, ladies and gentlemen, who  
15:53:34 12 wants you to believe that his credibility isn't  
15:53:39 13 tarnished, and that what he says you should believe, or  
15:53:46 14 you can believe.

15:53:49 15 Here is a now disrespected and dethroned law  
15:54:04 16 enforcement officer telling you that he speed read his  
15:54:10 17 supplement to his plea agreement. He speed read it.  
15:54:13 18 Even though this is supposed to be the most important  
15:54:15 19 document that affects his future. But he still spent  
15:54:25 20 three hours going through transcripts, because he wants  
15:54:29 21 to tell the truth.

15:54:34 22 We also have a Puerto Rican drug dealer, another  
15:54:41 23 convicted Puerto Rican drug dealer who told you he  
15:54:45 24 pleaded guilty because he couldn't win his case. So the  
15:54:47 25 next best thing is to try to help convict anyone else

15:54:52 1 who has been accused in this case.

15:54:55 2 That person was being accused with my client,  
15:54:59 3 Raymond Brown.

15:55:03 4 You heard his testimony. You heard him say that  
15:55:06 5 Tapia told him that two kilos that he received from  
15:55:13 6 Tapia belonged to my client.

15:55:15 7 You heard AUSA Kelly Lake asked, urged and pushed  
15:55:31 8 Mr. Negron-Beltran, trying to get him to say that he and  
15:55:39 9 Raymond Brown had some deal.

15:55:42 10 But what did he say?

15:55:44 11 He said they spoke in Puerto Rico. And you heard  
15:55:48 12 the testimony from Ms. Springette that, yes, they went  
15:55:53 13 to a party there, and just as they came, they left,  
15:56:01 14 empty handed.

15:56:02 15 That he said specifically, there was no agreement,  
15:56:07 16 no agreement, nothing was done.

15:56:14 17 So where are the two kilos? Where is the money for  
15:56:18 18 these two kilos? Where is it?

15:56:32 19 Mr. Tapia said it's in Puerto Rico. But it got  
15:56:39 20 there, and it somehow was never paid for?

15:56:42 21 I mean, where did it go?

15:56:48 22 I ask you to review the same transcript, the same  
15:56:53 23 Exhibit 53 that the government is relying on. Listen  
15:57:02 24 carefully, review it carefully. Because if you read it  
15:57:06 25 well, and you reviewed the testimony of

15:57:11 1 Ms. Latoya Springette, she told you Raymond doesn't have  
15:57:18 2 two children, two sons.

15:57:21 3 The parrot has two sons, the parrot. And her two  
15:57:26 4 sons are coming down. Mr. Brown has one daughter, five  
15:57:35 5 years old.

15:57:35 6 She told you they went there, her daughter,  
15:57:40 7 himself, and she, that they stayed there for a few  
15:57:46 8 minutes. They had, they left with no thousands of  
15:57:51 9 dollars nor with no cocaine that supposedly was being  
15:57:55 10 returned, according to Mr. Tapia or, if you believe,  
15:58:01 11 Mr. Angel Negron-Beltran.

15:58:09 12 Now, when we started this trial my client started  
15:58:12 13 with ten counts. You will note that you're going to  
15:58:19 14 deliberate on eight, six having to do with telephone  
15:58:27 15 calls.

15:58:27 16 I just listened carefully to Attorney Lake as she  
15:58:37 17 recapped what was said. And what I heard in the first  
15:58:42 18 call from my client was: Yes, okay.

15:58:49 19 Second call: Yeah, all right.

15:58:54 20 Third call: I right here by -- some place.

15:58:59 21 Fourth call: Two applications. Call me when I  
15:59:08 22 done.

15:59:08 23 And the fifth call was a discussion between  
15:59:15 24 Negron-Beltran and Tapia, wherein Tapia is telling him  
15:59:22 25 this or that, and that the parrot and her two sons are

15:59:26 1 coming down.

15:59:30 2 What's also interesting is Mr. Tapia's testimony

15:59:38 3 about this alleged 24 kilos.

15:59:41 4 Now, you don't hear any conversation about I'm

15:59:47 5 going to drop it by a blue Honda in the Market Square.

15:59:54 6 That's what Tapia wants you to believe. And that's why

15:59:57 7 the government continues to shout at you and say guilty,

16:00:00 8 guilty, guilty, guilty, about ten times.

16:00:04 9 But remember, only you, ladies and gentlemen of the

16:00:06 10 jury, determine guilt or innocence, not me, not Attorney

16:00:11 11 Lake, not the judge in this case, not Attorney Mingolla

16:00:15 12 and not anyone who is listening.

16:00:20 13 Your verdict comes from what you hear, what you

16:00:23 14 make sense out of.

16:00:26 15 And just let me tell you, this is the first and

16:00:31 16 only time -- last time that I'm going to have this

16:00:35 17 opportunity to recap this information. The government

16:00:38 18 will have another crack, so they will try to rebut what

16:00:42 19 I'm going to say.

16:00:43 20 However, you are the fact finders. What I say,

16:00:47 21 what they say, is not evidence. The evidence is the

16:00:52 22 testimony that you've heard. And the judge has

16:00:58 23 instructed you about how you're supposed to handle that

16:01:01 24 testimony, who to believe and what to believe.

16:01:08 25 Let's think about Negron's testimony. How much

16:01:12 1 credit should you give Angel Negron-Beltran's testimony?

16:01:20 2 How much weight must you give it?

16:01:24 3 Seven kilos; 200 grams? Most of it, none.

16:01:33 4 Now let's look at our infamous director of law

16:01:39 5 enforcement and planning, who said that he's been

16:01:41 6 dealing in drugs for almost two decades. He's using the

16:01:50 7 same boat to pick up these drugs and move these drugs

16:01:54 8 that he also used to pick up -- our taxpayer's boat,

16:02:01 9 that he also used to transport our government officials.

16:02:05 10 Can you -- or I should say -- you cannot believe

16:02:15 11 and rely on Tapia's testimony, not to convict my client.

16:02:25 12 Not if you use the standard that in fact we are

16:02:27 13 committed to use.

16:02:32 14 He testified that my client told him, pick up

16:02:35 15 24 pounds, 24 kilos. I think that's a little over, a

16:02:40 16 kilo's supposed to be a little over 2 pounds. I'm not

16:02:46 17 sure. But I believe I can tell you if it's 24 kilos,

16:02:49 18 that means it's three times the amount that you see in

16:02:52 19 that box.

16:03:01 20 So that means it had to be someplace. You didn't

16:03:03 21 hear him say: I went in the car and I take it out of

16:03:06 22 the front seat -- the back seat, under the seat, or

16:03:10 23 where it was.

16:03:16 24 And if you have three times and a little more than

16:03:21 25 that box, it has to be somewhere. And assuming the

16:03:25 1 Honda Civic, it would be in the back seat, front seat or  
16:03:26 2 in the trunk, open and notorious in Market Square, for  
16:03:32 3 those of us or you who know Market Square.

16:03:38 4 So obviously -- I can't tell you. I'm not going to  
16:03:41 5 speculate where it was. But what you did hear -- or  
16:03:51 6 what you didn't hear, you never heard any discussion  
16:03:54 7 about a cost, a price or a total for these 24 kilos,  
16:04:01 8 other than from who?

16:04:06 9 Mr. Tapia, who got upset when somebody said it  
16:04:12 10 seems like you would turn in your mother to save  
16:04:15 11 yourself. As we say, sometimes, the guy who is singing  
16:04:20 12 for his supper or is singing for a better deal.

16:04:28 13 He said he put \$250,000 in a car, he don't know who  
16:04:33 14 it belong to. Just leave it there. Now, I don't know  
16:04:40 15 how much a kilo is, because I'm -- I don't deal in it,  
16:04:44 16 so I can't tell you. So I know none of you also deal in  
16:04:48 17 it, so you wouldn't be experts in it either.

16:04:50 18 But what I heard is that testimony that a kilo is  
16:04:57 19 20,000, I think you heard that, I heard a suggestion of  
16:05:01 20 18,000. I heard a suggestion of 15,500. I heard a  
16:05:11 21 suggestion of 14,500.

16:05:15 22 But when I asked Mr. Tapia about the amount of  
16:05:21 23 money, he quickly say, oh, that one were 13,500 for  
16:05:26 24 24 kilos. Well, you do the math. That's a big number  
16:05:32 25 that he's throwing out here, to think it could just work

16:05:36 1 in -- work out like that. You have pen and paper. You  
16:05:39 2 do the math.

16:05:39 3 I did it a little earlier and I think I come up  
16:05:42 4 with 13 thousand -5, times 24, is 320,000-plus. I think  
16:05:55 5 if you keep going down the list you will find that for  
16:06:00 6 alleged 24 kilos, it would be, if you get to 250, it  
16:06:07 7 will be someplace or a little over 10,000.

16:06:11 8 So in this business, I believe it have greedy  
16:06:18 9 people, so I don't know where the other \$70,000, if it  
16:06:21 10 was 13, 5, where the other \$70,000 went, come or going.

16:06:31 11 But this is the information the government want you  
16:06:35 12 to rely upon to convict somebody, you know. The  
16:06:38 13 information from an admitted drug dealer of over  
16:06:45 14 20 years, who betrayed the trust of this government and  
16:06:49 15 the people of the Virgin Islands.

16:06:52 16 I don't have to shout about guilty, guilty, guilty,  
16:06:55 17 because that doesn't make someone culpable.

16:07:01 18 Where is the possession?

16:07:03 19 Where is the agreement to possess and distribute?

16:07:11 20 Where is it? Yeah, okay.

16:07:15 21 Where are the pictures of this coke? Where is the  
16:07:19 22 cash?

16:07:20 23 Where is the photographs that you can hold and feel  
16:07:25 24 and see?

16:07:30 25 The judge has told you that the standard in

16:07:37 1 American jurisprudence is proof beyond a reasonable  
16:07:40 2 doubt. And in my few years of talking to jurors and  
16:07:44 3 trying cases, it's always a challenge to explain. And  
16:07:48 4 as the judge says, it is easy to say "proof beyond a  
16:07:52 5 reasonable doubt," but it's kind of a little difficult  
16:07:54 6 to define, because you don't just -- you're not supposed  
16:07:57 7 to define something by using the same words that you're  
16:08:00 8 trying to define.

16:08:01 9 But "reasonable doubt" means using your reason, and  
16:08:06 10 the kind of doubt is the kind of restraint or pause that  
16:08:13 11 you will have to make when you're confronted with an  
16:08:17 12 issue that's important to your life. It's not all  
16:08:27 13 doubt, but it's a reasonable doubt.

16:08:32 14 Given the credibility of these two people, given  
16:08:36 15 the instruction that the judge told you, you have to be  
16:08:41 16 mindful of those individuals who are testifying with a  
16:08:46 17 purpose, and the purpose of the government's evidence in  
16:08:52 18 the form of Angel Negron-Beltran and Roberto Tapia is  
16:09:05 19 their well-being for the next 20, 30 years of their  
16:09:13 20 life.

16:09:14 21 I don't believe you will get an opportunity to see  
16:09:17 22 the plea agreement or the supplement. However, it is  
16:09:21 23 clear that in there Mr. Tapia has agreed to testify and  
16:09:30 24 say whatever he needs to say to get a huge reduction in  
16:09:36 25 his proposed sentence.

16:09:40 1 Not a guarantee, but he has to go through the  
16:09:51 2 process of testifying. And again, you got to do the  
16:09:54 3 math. You got to use your common sense, you know,  
16:10:01 4 because proof beyond a reasonable doubt suggests that  
16:10:05 5 you use your common sense in determining factors.

16:10:13 6 As I said, the judge has instructed you about the  
16:10:18 7 difficulty in determining what reasonable doubt is. We  
16:10:21 8 believe that there's more than a doubt. My client  
16:10:28 9 believe -- me and my client believe that if you view the  
16:10:34 10 incredible testimony of the two accusers, you cannot  
16:10:41 11 find beyond a reasonable doubt that he committed any of  
16:10:45 12 the crimes for which he's accused of.

16:10:50 13 As I said, you can't, you haven't seen any  
16:10:52 14 pictures, photographs, drawings, proceeds from 24 kilos.  
16:11:02 15 You have not seen or heard any discussion on any tapes  
16:11:06 16 of any cash paid to Raymond Brown by Mr. Tapia or by  
16:11:14 17 Mr. Negron. None.

16:11:18 18 You've seen -- you've heard no evidence of him  
16:11:21 19 possessing, other than Mr. Tapia's statement. None of  
16:11:33 20 the alleged phone calls that the government relies upon  
16:11:48 21 has any other reliable corroborating evidence that you  
16:11:54 22 can put your hands on, other than Tapia's explanation as  
16:12:00 23 to what he wants you to believe and glean from those  
16:12:04 24 telephone calls.

16:12:09 25 In short, the evidence just doesn't fit. The cash

16:12:16 1 doesn't add up. The two witnesses are singing, singing  
16:12:26 2 for their sentence reduction, and they're giving you an  
16:12:37 3 incredible story.

16:12:46 4 We believe if you evaluate all that has been said,  
16:12:49 5 all the testimony and all the inferences from the  
16:12:53 6 testimony of the two accusers, you cannot find Mr. Brown  
16:13:03 7 guilty beyond a reasonable doubt.

16:13:07 8 Furthermore, we believe you have a duty to acquit  
16:13:12 9 Mr. Brown in this matter, and we hope and we await and  
16:13:20 10 look forward to your vote, your unanimous vote and your  
16:13:29 11 favorable verdict that we believe shows that the  
16:13:38 12 Government of the United States has not put forth the  
16:13:45 13 type of evidence that you can rely upon in making the  
16:13:52 14 most serious and important decisions that one will  
16:13:58 15 utilize, or the standard that you would use when you are  
16:14:03 16 making decisions on your own personal affairs.

16:14:07 17 We ask you to transfer that same standard to your  
16:14:12 18 judgment of this case. And we believe once you do that,  
16:14:17 19 you have no other choice and option other than to acquit  
16:14:23 20 Raymond Brown of all the charges that he's here before  
16:14:28 21 this Court.

16:14:29 22 We would like to thank you for your attention,  
16:14:31 23 because we know that you've been attentive. We  
16:14:34 24 apologize for any delays or any problems that we may  
16:14:39 25 have caused or distractions that we have caused to you.

16:14:42 1 And we hope that you do come back with a favorable  
16:14:46 2 verdict.

16:14:47 3 Thank you.

16:14:49 4 THE COURT: Thank you, Attorney Watlington.  
16:14:50 5 Attorney Lake.

16:14:58 6 MS. LAKE: Thank you.

16:14:58 7 REBUTTAL ARGUMENT BY THE GOVERNMENT (Re Brown)

16:15:02 8 MS. LAKE: Ladies and gentlemen of the jury, I  
16:15:03 9 will try not to repeat myself. However, Attorney  
16:15:08 10 Watlington had a number of questions that he asked, and  
16:15:13 11 then he answered them himself.

16:15:15 12 So first, you are the sole judges of the facts.  
16:15:20 13 You determine the credibility of the witnesses. But  
16:15:24 14 keep in mind when you are a drug dealer, when your  
16:15:31 15 business is drugs, your colleagues are drug dealers, and  
16:15:34 16 your colleagues work in drugs. So the witnesses before  
16:15:40 17 you are drug dealers, because they work with the  
16:15:42 18 defendant. They work with Raymond Brown. They work in  
16:15:47 19 the same business of dealing drugs, because the  
16:15:51 20 Defendant Raymond Brown is a drug dealer.

16:15:55 21 And some of the questions and concerns Attorney  
16:16:00 22 Watlington had, he suggested there had been no  
16:16:04 23 conversation of price. Well, there was a phone call.  
16:16:08 24 It's Government's Exhibit 12, Roberto Tapia speaking to  
16:16:19 25 Defendant Raymond Brown. The price in Puerto Rico is

16:16:23 1 22. It's going down.

16:16:27 2 He testified he told Raymond Brown: Your price has

16:16:31 3 to go down.

16:16:32 4 Price is discussed.

16:16:35 5 And what else did you hear?

16:16:37 6 Attorney Watlington answered his own question

16:16:41 7 regarding 200,000 or 300-and-something thousand dollars.

16:16:46 8 He answered his own question about the price.

16:16:50 9 What else did you hear?

16:16:54 10 You know that Roberto Tapia and Raymond Brown had

16:16:57 11 discussed price. They called on the phone and arranged

16:17:01 12 to meet in person, and Roberto Tapia told you what they

16:17:05 13 discussed. And that's on the 24 kilograms.

16:17:10 14 On the two kilograms, what do you know? You know

16:17:14 15 that Raymond Brown and La Catora, La Catora, who is

16:17:21 16 Raymond Brown, spoke to Angel Negron to discuss price.

16:17:27 17 You heard that from Roberto Tapia. That's what we know.

16:17:30 18 We also know the defendant is guilty, and we also

16:17:33 19 know he's a drug dealer.

16:17:34 20 But what evidence do you have? You have Roberto

16:17:36 21 Tapia and you have Angel Negron Beltran.

16:17:40 22 And you'll have the calls. Listen to them. You

16:17:43 23 are the sole judges of the facts. You are the sole

16:17:47 24 judges of the credibility. Listen. Listen to the

16:17:52 25 calls. Review your notes. You are the sole judges.

16:17:56 1 But in the call I played for you, La Catora talks  
16:18:01 2 about two Parrots, two birds, two sons, two birds, two  
16:18:07 3 pigeons. It's two kilograms. It's all about  
16:18:11 4 two kilograms.

16:18:13 5 So, ladies and gentlemen, you know what you know  
16:18:17 6 based on the facts and the evidence. You know beyond a  
16:18:21 7 reasonable doubt that the defendant is guilty. The  
16:18:24 8 defendant is guilty of a conspiracy to distribute  
16:18:29 9 cocaine.

16:18:30 10 And one last thing. Defense counsel Watlington  
16:18:33 11 mentioned all you heard was the Defendant Raymond Brown  
16:18:37 12 say: Yes, uhm-hmm, yes.

16:18:38 13 Well, you just heard an agreement. That is the  
16:18:42 14 crime. The crime is the conspiracy. And the crime is  
16:18:46 15 the agreement. And you heard the defendant commit the  
16:18:50 16 crime. You heard the agreement.

16:18:52 17 So ladies and gentlemen, we are confident that at  
16:18:55 18 the close of your deliberations, you will find the  
16:18:58 19 Defendant Raymond Brown guilty of conspiring to  
16:19:01 20 distribute 24 kilograms of cocaine, and on a separate  
16:19:05 21 occasion 2 kilograms of cocaine.

16:19:07 22 We are confident you will find him guilty.

16:19:10 23 Thank you.

16:19:11 24 THE COURT: Okay. Thank you, Attorney Lake.

16:19:11 25

16:19:11 1 FURTHER JURY INSTRUCTIONS BY THE COURT (Re Brown)

16:19:14 2 THE COURT: The indictment charges that the  
16:19:16 3 crimes charged occurred on or about certain dates. The  
16:19:20 4 proof need not establish with certainty the exact dates  
16:19:22 5 of the alleged offense. It's sufficient if the evidence  
16:19:24 6 in this case establishes beyond a reasonable doubt that  
16:19:26 7 the offense was committed on dates reasonably near the  
16:19:30 8 date alleged.

16:19:30 9 During the course of this trial you've seen counsel  
16:19:33 10 both for the government and for defense make various  
16:19:35 11 objections to questions asked and evidence offered. It  
16:19:39 12 is not only the right, it is the duty of counsel for  
16:19:41 13 either the government or for the defendants to make an  
16:19:45 14 objection when that counsel believes evidence or  
16:19:47 15 testimony being offered is not admissible under the  
16:19:50 16 Rules of Evidence.

16:19:51 17 Then I rule on the objections.

16:19:53 18 Do not be influenced in any way of my rulings,  
16:19:56 19 whether in favor of or against the government or the  
16:20:00 20 defendant.

16:20:00 21 As I already told you, these rulings involve  
16:20:03 22 questions of law only and must not be given any  
16:20:06 23 consideration in your deliberations.

16:20:08 24 Performing my constitutional role to preside over  
16:20:11 25 this trial, I sometimes found it necessary to ask a

16:20:14 1 question of a witness to clarify testimony I thought was  
16:20:17 2 unclear.

16:20:18 3 If I've asked questions to any of the witnesses  
16:20:20 4 during the course of this trial, or if I've said or done  
16:20:23 5 anything during this trial or in the course or manner  
16:20:25 6 that I'm instructing you now, whereby it seems to you  
16:20:27 7 that I'm inclined to favor the case of the government or  
16:20:30 8 the case of any defendant, you must remove any such  
16:20:33 9 impression from your minds, as no such impression was  
16:20:37 10 intended.

16:20:37 11 You've seen counsel consult with each other and  
16:20:40 12 sometimes amongst each other. Attorneys have an  
16:20:44 13 obligation to consult with each other if such  
16:20:45 14 consultation is in the best interest of an attorney's  
16:20:49 15 client.

16:20:49 16 Counsel has also a right to request of me to make  
16:20:53 17 rulings of law and request hearings outside of the jury.  
16:20:56 18 All those questions of law must be decided by me, the  
16:20:58 19 Court.

16:20:58 20 You should not show any prejudice against an  
16:21:01 21 attorney or an attorney's client because the attorney  
16:21:02 22 asked for a conference outside the hearing of a jury or  
16:21:05 23 asked the Court for a ruling on the law.

16:21:07 24 All of these conferences deal with legal questions  
16:21:09 25 on which I've ruled and do not concern your function as

16:21:12 1 jurors. Do not speculate on such matters during your  
16:21:15 2 deliberations.

16:21:15 3 It is my duty to admonish an attorney who, out of  
16:21:21 4 zeal for the attorney's cause, says something which I  
16:21:24 5 feel is not keeping with the Rules of Evidence or  
16:21:26 6 procedure. You are to draw absolutely no evidence -- no  
16:21:30 7 inference against a side to whom an admonition of the  
16:21:33 8 Court may have been addressed during the trial of this  
16:21:35 9 case.

16:21:35 10 You've been chosen and sworn as jurors in this case  
16:21:38 11 to try the issues of facts presented by the defendant's  
16:21:41 12 pleas of not guilty to the charges in the indictment.

16:21:43 13 You are to perform this duty without bias, sympathy  
16:21:47 14 or prejudice. Under no circumstances, then, may your  
16:21:49 15 deliberations be affected or diverted by any appeals to  
16:21:53 16 bias, passion or prejudice, nor influenced by any pity  
16:21:56 17 or sympathy in favor of either side.

16:21:58 18 In every respect your judgment must be considered,  
16:22:01 19 deliberate and objective. It must derive its force and  
16:22:04 20 validity from the facts and inferences reasonably and  
16:22:07 21 logically supported by the testimony.

16:22:08 22 Both the government and defendant expect that you  
16:22:12 23 will carefully and impartially consider all of the  
16:22:14 24 evidence, follow the law as stated by the Court and  
16:22:16 25 reach a just verdict regardless of the consequences.

16:22:19 1 I need not impress upon you, I know, that it is  
16:22:21 2 your duty to give an absolutely fair and impartial  
16:22:24 3 verdict.

16:22:25 4 It was said that this is an important case. That  
16:22:27 5 is true. Every case that comes into this Court is  
16:22:30 6 important.

16:22:30 7 This case is of equal importance to the government  
16:22:32 8 and to the defendant. Each is entitled to your fairest  
16:22:36 9 consideration, your closest judgment and your impartial  
16:22:39 10 decision.

16:22:40 11 Jurors perform a very important function in  
16:22:42 12 deciding upon their verdict. You are an arm of this  
16:22:44 13 Court, here to do justice. That is sacred. Do your  
16:22:48 14 duty conscientiously, according to your oath and  
16:22:52 15 according to these instructions and justice will be  
16:22:54 16 done.

16:22:54 17 You were accepted as jurors based on your answers  
16:22:58 18 when you were initially questioned about your  
16:23:00 19 qualifications.

16:23:00 20 The answers you then made to the questions with  
16:23:03 21 regard to your competency, qualifications, fairness,  
16:23:06 22 lack of bias and freedom from sympathy are as binding  
16:23:10 23 upon you now as they were then, and shall remain so  
16:23:12 24 until you are finally discharged from further  
16:23:15 25 consideration of this case.

16:23:16 1 Remember at all times you are not partisans, you  
16:23:19 2 are judges, judges of the facts. Your sole interest is  
16:23:23 3 to search for and to ascertain the truth from the  
16:23:27 4 evidence in this case.

16:23:27 5 You'll recall earlier in these instructions I  
16:23:30 6 charged that under our system of criminal justice the  
16:23:33 7 Court and jury have distinct functions.

16:23:35 8 What sentence or punishment, if any, a defendant  
16:23:38 9 will receive if found guilty is entirely beyond the  
16:23:42 10 province of the jury. In plain words, that is the  
16:23:44 11 business of this Court.

16:23:45 12 Sentence or punishment should never be considered  
16:23:48 13 by a jury in any way in arriving at an impartial  
16:23:51 14 verdict.

16:23:52 15 Your sole duty is to determine the guilt or lack of  
16:23:54 16 guilt of the defendant presently on trial before you.

16:23:58 17 You're further instructed that if any of you has  
16:24:00 18 developed any opinion in this case, predicated in whole  
16:24:03 19 or in part on sources seen or heard outside of this  
16:24:07 20 Court, you are to put such opinion out of your mind.

16:24:12 21 I want to express in the strongest possible terms  
16:24:14 22 that regardless of what counsel has said in recalling  
16:24:16 23 the facts of this case, it is your recollection of the  
16:24:18 24 facts that should guide you in carrying out your  
16:24:20 25 function as judges of the facts.

16:24:23 1 If any of the attorneys stated a version of the  
16:24:27 2 facts that does not square with your own recollections,  
16:24:29 3 you are to disregard that version in favor of your own  
16:24:31 4 recollections.

16:24:32 5 In arriving at your verdict you are to consider all  
16:24:35 6 the evidence as you recall it, and you are to give to  
16:24:39 7 that evidence the weight that you believe it was  
16:24:41 8 entitled to receive.

16:24:44 9 During the course of this trial you have no doubt  
16:24:46 10 received certain definite impressions in how you think  
16:24:48 11 it should be decided.

16:24:49 12 Do not allow these impressions to become so firmly  
16:24:52 13 fixed that they prevent you from fairly and frankly  
16:24:54 14 discussing this case with any of your fellow jurors who  
16:24:56 15 may have a different point of view.

16:24:58 16 It is your duty as jurors to give careful attention  
16:25:01 17 and consideration to the views of your fellow jurors, to  
16:25:04 18 consult with one another and to deliberate with a view  
16:25:06 19 toward reaching an agreement, if you can do so without  
16:25:09 20 doing violence to your individual judgment.

16:25:10 21 Each of you must decide the case for yourselves,  
16:25:13 22 but do so only after an impartial consideration of the  
16:25:17 23 evidence with your fellow jurors.

16:25:18 24 In the course of your deliberations do not hesitate  
16:25:21 25 to take a look at your own views and to change your

16:25:24 1 opinion if you become convinced it is wrong. But do not  
16:25:28 2 give up your honest conviction or belief about the  
16:25:31 3 effect of the evidence based solely on the opinion of  
16:25:34 4 your fellow jurors or just so you can return a verdict.  
16:25:36 5 When you retire to the jury room to deliberate,  
16:25:38 6 your first order of business is to elect a foreperson.  
16:25:40 7 The foreperson will preside over your deliberations  
16:25:43 8 and will speak for you here in court. That person has  
16:25:46 9 no greater weight of opinion than anyone else.  
16:25:49 10 If it becomes necessary during your deliberations  
16:25:51 11 to communicate with me, you may send a note by the court  
16:25:54 12 security officer or a marshal.  
16:25:56 13 Never try to communicate with me by any means other  
16:26:00 14 than by a signed, sealed writing. And bear in mind you  
16:26:05 15 are not to reveal to the Court, or to any person, how  
16:26:09 16 you stand numerically or otherwise until you've reached  
16:26:19 17 a unanimous verdict.  
16:26:21 18 Now a word about your verdict.  
16:26:22 19 Your verdict must represent the considered judgment  
16:26:24 20 of each juror, and all jurors must agree on the verdict  
16:26:28 21 before you return a verdict. Your verdict must be  
16:26:30 22 unanimous.  
16:26:30 23 To aid and assist you in the discharge of your  
16:26:33 24 obligation, there has been prepared with the consent of  
16:26:37 25 counsel a verdict form, which you are to answer

16:26:39 1 unanimously, thereby facilitating your task and that of  
16:26:42 2 the Court in determining the proper verdict to be  
16:26:45 3 entered.

16:26:45 4 As I discussed before, you will be making a  
16:26:48 5 determination of guilty or not guilty on the crime with  
16:26:51 6 which each defendant is charged.

16:26:53 7 As you will see when I give you the verdict form,  
16:26:55 8 it has the space listed for the charge. Within the  
16:26:58 9 space you will note that there's a space provided for  
16:27:00 10 guilty or not guilty.

16:27:01 11 When you've made a unanimous determination of the  
16:27:04 12 guilt or innocence of the defendant with respect to a  
16:27:06 13 particular charge, you will make an X mark in the  
16:27:10 14 appropriate space, indicating either guilty or not  
16:27:12 15 guilty.

16:27:12 16 You will also see that following certain charges  
16:27:15 17 the verdict form has an additional condition with a  
16:27:18 18 space for yes or no answers.

16:27:19 19 Answer these questions only if you find a defendant  
16:27:24 20 guilty for that particular charge. Follow the  
16:27:25 21 directions as appropriate for these yes or no questions.

16:27:30 22 Nothing that has been said in these instructions or  
16:27:33 23 in the form of verdict is to suggest or convey in any  
16:27:37 24 manner what verdict I think you should find.

16:27:39 25 You'll take this form with you and when you have

16:27:41 1 unanimously made a determination, the foreperson should  
16:27:43 2 date it, sign it, and then pass it to each of you to  
16:27:46 3 sign.

16:27:46 4 Then it should be sealed.

16:27:48 5 Then you should advise the marshal that you wish to  
16:27:50 6 be returned to the courtroom.

16:27:51 7 And upon your return to the courtroom, the  
16:27:54 8 foreperson should bring the verdict form.

16:27:56 9 I will then ask if you've reached a verdict and, if  
16:27:58 10 so, will ask the foreperson to announce the jury's  
16:28:02 11 verdict. Your foreperson will then respond by using the  
16:28:04 12 completed verdict form supplied to you.

16:28:08 13 All right. It is now time for you to begin your  
16:28:10 14 deliberations.

16:28:10 15 You will have with you the evidence admitted in  
16:28:13 16 this case with respect to Mr. Raymond Brown. Those are  
16:28:20 17 Exhibits 3 through 53. And you will be deliberating  
16:28:25 18 with respect to Mr. Raymond Brown on Counts 1, 4, 5, 6,  
16:28:32 19 7, 8, 9, 10.

16:28:36 20 One final note. You will be moving to our  
16:28:41 21 courtroom on the first floor, the deliberation room  
16:28:44 22 there, so you will not be in the room where you are now.  
16:28:47 23 And if you need to meet with me or if I need to  
16:28:49 24 communicate with you, we will do so in the courtroom  
16:28:52 25 downstairs.

16:28:53 1 All right?

16:28:54 2 So with that, let me send you to the deliberation

16:29:01 3 room, after we...

16:29:13 4 THE CLERK: Marshal? Please raise your right

16:29:15 5 hand.

16:29:16 6 (CSO Heyliger sworn)

16:29:36 7 THE COURT: It's now time to begin your

16:29:37 8 deliberations. All rise.

16:30:17 9 (Panel A excused for deliberation.)

16:30:22 10 THE COURT: Now we'll bring in Group B.

16:30:24 11 MS. LAKE: Your Honor, may I just have a minute

16:30:26 12 to use the restroom?

16:30:29 13 THE COURT: All right. Just a couple of

16:30:31 14 minutes -- we'll be in recess -- we're lining up the

16:30:34 15 jury right now.

16:30:37 16 MR. WATLINGTON: Your Honor, you didn't excuse

16:30:40 17 us. Can we be excused?

16:30:42 18 THE COURT: Yes.

16:30:43 19 MR. WATLINGTON: Can we --

16:30:45 20 THE COURT: I don't want you to leave the

16:30:47 21 courthouse, because there's the seven-minute rule, and

16:30:49 22 we need to have the instruction on that. We'll do it

16:30:52 23 shortly. So I don't want you to leave the courthouse.

16:30:57 24 MR. WATLINGTON: No, we're not leaving the

16:30:59 25 courthouse.

16:30:59 1 THE COURT: All right. Very good. Yes, you're  
16:31:00 2 excused.

16:31:01 3 MR. WATLINGTON: Thank you.

16:31:03 4 MS. LAKE: Can I have a few moments, Your  
16:31:05 5 Honor?

16:31:05 6 THE COURT: Yes. Let me make sure the redacted  
16:31:12 7 indictment -- let me put this on the Elmo. Attorney  
16:31:17 8 Watlington, I don't want you to leave just yet. This is  
16:31:20 9 the indictment that will be going back to the...

16:32:16 10 MS. LAKE: I'll just be right back, Your Honor.  
16:32:18 11 Is that okay?

16:32:19 12 THE COURT: The purpose of this is I want you  
16:32:21 13 to see the redacted indictment that is going down --  
16:32:24 14 we'll take a break for you if we can just show this -- I  
16:32:28 15 think if you unplug the back of it and then plug it back  
16:32:33 16 in.

16:33:39 17 All right. That's page one of the redacted  
16:33:41 18 indictment. Any issues with that from the government?

16:33:43 19 MS. LAKE: No, Your Honor.

16:33:44 20 THE COURT: Attorney Watlington?

16:33:46 21 MR. WATLINGTON: No, Your Honor.

16:33:46 22 THE COURT: Okay. Let's go to page 2. That's  
16:33:53 23 just a follow-up substance. Any problem with that?

16:33:55 24 MS. LAKE: No, Your Honor.

16:33:57 25 MR. WATLINGTON: No problem, Your Honor.

16:33:57 1 THE COURT: Okay. Next page. That's the final

16:34:02 2 page. Any problem with that?

16:34:04 3 MS. LAKE: No, Your Honor.

16:34:05 4 MR. WATLINGTON: No, Your Honor.

16:34:06 5 THE COURT: All right. That's the indictment

16:34:07 6 that will go down to them, along with the verdict form

16:34:11 7 and the instructions and, of course, the exhibits.

16:34:15 8 All right. Attorney Lake, you wanted a minute.

16:34:18 9 MS. LAKE: Can I have one and a half?

16:34:24 10 THE COURT: Yes. Go right ahead.

16:34:25 11 MR. MINGOLLA: You know, Your Honor, if you

16:34:27 12 don't mind, I'll --

16:34:28 13 THE COURT: Just go ahead. One minute.

16:37:55 14 (Pause.)

16:37:55 15 (Jury Panel B present, 4:37 p.m.)

16:37:58 16 THE COURT: All right. Ladies and gentlemen,

16:37:59 17 is it now time for closing argument.

16:38:01 18 We'll first hear from the government.

16:38:02 19 Attorney Lake, ready to proceed?

16:38:04 20 MS. LAKE: Yes, Your Honor.

16:38:05 21 THE COURT: Go right ahead.

16:38:12 22 CLOSING ARGUMENT BY THE GOVERNMENT (Re Def't Hill)

16:38:12 23 MS. LAKE: Good evening, ladies and gentlemen.

16:38:17 24 Now, the Defendant Walter Hill has been charged in

16:38:19 25 three counts: Conspiracy to possess with intent to

16:38:24 1 distribute cocaine, possessing -- possession with intent  
16:38:28 2 to distribute cocaine, and using a phone to commit that  
16:38:30 3 offense.

16:38:31 4 So you heard from the witnesses, you have the  
16:38:34 5 testimony, you have the evidence. You are the sole  
16:38:39 6 judges of the facts. You are the sole judges of  
16:38:44 7 credibility. You decide. You heard the evidence.

16:38:47 8 You heard in trial from Mr. Roberto Tapia, you  
16:38:55 9 heard from Angel Negron Beltran, and you heard from  
16:38:59 10 Angelo Hill.

16:39:00 11 Essentially what you heard was that on May 17th,  
16:39:02 12 Roberto Tapia picked up a bag of money on the water.  
16:39:07 13 After he picked up that bag of money, he contacted  
16:39:12 14 Angelo Hill and asked for seven kilograms of cocaine.

16:39:17 15 What happened next?

16:39:19 16 Roberto Tapia traveled to St. John. He was picked  
16:39:23 17 up by Angelo Hill and he met with Walter Hill. Walter  
16:39:28 18 Hill gave him seven kilograms of cocaine, and Roberto  
16:39:33 19 Tapia gave him money.

16:39:36 20 And Roberto Tapia came back to St. Thomas and he  
16:39:39 21 was arrested. He was arrested with seven kilograms of  
16:39:46 22 cocaine, the same seven kilograms of cocaine that he got  
16:39:50 23 from Walter Hill.

16:39:51 24 So what's the evidence?

16:39:52 25 What's the testimony?

16:39:53 1 You have the phone calls. You heard the phone  
16:39:56 2 calls. You heard the testimony of Roberto Tapia. He  
16:39:59 3 called Angelo: I need seven of them, and they got to be  
16:40:02 4 ready. I really want the price lowered but I have what  
16:40:07 5 the guy wants.

16:40:09 6 I have what Walter Hill wants. I have the price  
16:40:15 7 Walter Hill wants. You heard the testimony.

16:40:17 8 And finally, you heard from Angelo Hill. He  
16:40:23 9 connected Roberto Tapia with Walter Hill. He spoke with  
16:40:28 10 him after the fact.

16:40:30 11 And you heard from Walter Hill's own mouth what  
16:40:34 12 happened. He was there. They agreed to meet at the  
16:40:38 13 inspection lane. He was worried about his fingerprints  
16:40:42 14 on the kilo, because he handled at least one of them.  
16:40:46 15 Listen to the video. Listen to the tape. You'll have  
16:40:49 16 it. You will have all the evidence and all the  
16:40:52 17 testimony.

16:40:53 18 Because what you know is that the defendant is  
16:40:56 19 guilty. What you heard is that the defendant is a drug  
16:41:01 20 dealer. You heard from Roberto Tapia. He is also a  
16:41:05 21 drug dealer. You heard from Angel Negron-Beltran. He  
16:41:12 22 is also a drug dealer. You heard from Angelo Hill. He  
16:41:15 23 is a drug dealer. When your job and your business are  
16:41:20 24 drugs, that is who you work with. Those are your  
16:41:25 25 colleagues.

16:41:25 1 So let's just play, not the whole thing. You'll  
16:41:29 2 have them to play at your leisure, but let's just play  
16:41:33 3 the first clip.

16:42:01 4 (Exhibit published.)

16:42:01 5 He just said -- you heard from Walter Hill. He  
16:42:04 6 said: I'm going to tell you exactly what happened. You  
16:42:08 7 remember the thing we were supposed to be by inspection  
16:42:10 8 lane.

16:42:11 9 He just told you about the agreement. And again,  
16:42:14 10 he's charged with a conspiracy to distribute, to possess  
16:42:18 11 with intent to distribute. You heard the instructions  
16:42:20 12 given to you by the Court, the crime is the agreement.  
16:42:24 13 You just heard the crime.

16:42:29 14 Remember we were supposed to be by inspection lane.  
16:42:32 15 I'll tell you exactly what happened. I'll tell you  
16:42:34 16 exactly what happened on May 17th when I supplied  
16:42:37 17 Roberto Tapia with seven kilograms of cocaine.

16:42:42 18 Now, let's play the next clip.

16:43:35 19 (Exhibit published.)

16:43:37 20 You just heard from Walter Hill: I handled one of  
16:43:42 21 those things.

16:43:42 22 The same thing Roberto Tapia testified to. Walter  
16:43:46 23 Hill gave him seven kilograms. He handled one of them.  
16:43:50 24 You just heard the crime that Walter Hill admitted to  
16:43:54 25 committing, conspiracy to possess with intent to

16:43:59 1 distribute seven kilograms of cocaine; possession with  
16:44:03 2 intent to distribute seven kilograms of cocaine.

16:44:08 3 The government is confident at the conclusion of  
16:44:12 4 your deliberation, you will find the defendant guilty of  
16:44:15 5 possession with intent to distribute seven kilograms of  
16:44:19 6 cocaine, that he admitted to conspiracy, an agreement to  
16:44:25 7 distribute seven kilograms of cocaine.

16:44:28 8 Listen to the call, listen to the tape. We are  
16:44:31 9 confident you will find the defendant guilty.

16:44:33 10 Thank you.

16:44:35 11 THE COURT: Thank you, Attorney Lake.

16:44:37 12 Attorney Mingolla.

16:44:40 13 MR. MINGOLLA: Yes, sir.

16:44:40 14 CLOSING ARGUMENT BY DEFENDANT HILL

16:45:10 15 MR. MINGOLLA: Ladies and gentlemen of the  
16:45:10 16 jury, I wish to thank you for your attentiveness, for  
16:45:16 17 your time, and your attention to hearing the testimony  
16:45:21 18 in this trial.

16:45:23 19 I know that your duty is not always the most  
16:45:26 20 pleasant of tasks, and I've also been noting that,  
16:45:34 21 unlike many juries that I've had, that all of you have  
16:45:41 22 been paying attention. Sometimes jurors go to sleep,  
16:45:44 23 sometimes other things happen. But all of you have been  
16:45:46 24 paying attention, and I appreciate that very much, and  
16:45:49 25 so does my client. So I want you to know that.

16:45:56 1 Now, my client is not a law enforcement officer.

16:46:07 2 My client is a civilian. My client has a family and a

16:46:14 3 child. My client has a very fine job at Caneel Bay.

16:46:26 4 MS. LAKE: Objection, Your Honor.

16:46:26 5 THE COURT: Sustained. Stick to the evidence.

16:46:35 6 MR. MINGOLLA: Now, there are a number of

16:46:44 7 different issues that we need to discuss, that the

16:46:48 8 government has raised. At the beginning of -- in my

16:46:55 9 opening argument I had suggested to you or I had made

16:46:59 10 the statement to you that the government in this, in

16:47:04 11 this case were acting in a, some of the government's

16:47:11 12 agents, I should say, were acting as rogues, that they

16:47:22 13 were acting on their own initiative and that that

16:47:28 14 initiative was somewhat out of bounds. I will develop

16:47:33 15 that, that theory as I continue.

16:47:39 16 I think that the evidence -- or strike that.

16:47:44 17 I think that the testimony that we have heard

16:47:48 18 indicates quite clearly that some of these agents

16:47:52 19 involved in this case went way over the top in their

16:48:01 20 zeal to try and set up my client, Mr. Walter Hill.

16:48:09 21 Now there is some very interesting, interesting to

16:48:22 22 put it mildly, but there's some very interesting aspects

16:48:32 23 of this case that are rather unusual, again, to put it

16:48:46 24 mildly.

16:48:47 25 You heard testimony from a variety, a phalanx, I

16:48:57 1 wouldn't say phalanx, but a wide variety of government  
16:49:02 2 agents, FBI agents, DEA agents, pilots, radar operator  
16:49:06 3 and so on and so forth. But none of those have anything  
16:49:10 4 to do with my client.

16:49:20 5 The only agent from HIDTA who -- strike that.

16:49:30 6 Agent Grossman from HIDTA, who is one of the  
16:49:35 7 higher-ranking men there, testified, for example, that  
16:49:38 8 he placed on, placed on Mr. Angelo Hill's wrist a, what  
16:49:47 9 they call an audio-visual device.

16:49:54 10 Again, and I'll discuss this a little more in depth  
16:49:59 11 later, but that wasn't true. He didn't know -- that's  
16:50:05 12 no reflection on Attorney -- on Agent Grossman.

16:50:09 13 Grossman didn't realize, because he never been  
16:50:11 14 involved, that these rogue agents had decided, oh, well,  
16:50:16 15 you know, we're not satisfied with what our boss has  
16:50:23 16 decided to do and with what the US Attorney's Office has  
16:50:27 17 decided to do. No, no, no, we're going to do our own  
16:50:31 18 little thing.

16:50:32 19 And that's where this business about the cup come  
16:50:39 20 into play, where they decided that FBI Agent Fernandez,  
16:50:43 21 Agent Querrard and Agent Mark Joseph, the three of them,  
16:50:47 22 conspired to place another audio-visual device in a cup,  
16:50:54 23 without seeking the permission or sanction of anybody,  
16:51:01 24 of their superiors. They just did it on their own.

16:51:11 25 But I started -- I digress. I started to say, or I

16:51:17 1 was commencing to discuss the fact that one of the  
16:51:21 2 unusual things of this case is that we have basically --  
16:51:30 3 not basically -- we have two law enforcement officers, a  
16:51:34 4 decade, with decades of experience in law enforcement  
16:51:41 5 and in drug trafficking. By their own admissions  
16:51:47 6 they've been drug trafficking for decades.

16:51:51 7 Now, these two gentlemen -- I had used an  
16:52:06 8 expression that Mr. Tapia took offense to, but my point  
16:52:12 9 was that he and Mr. Angelo Hill would literally  
16:52:23 10 implicate anybody in order to lessen their very, very,  
16:52:32 11 potentially very, very lengthy jail sentences.

16:52:36 12 Now, I mention that because that goes towards these  
16:52:46 13 plea bargains. It is highly unusual for there to be two  
16:52:56 14 plea bargains, two separate plea bargains for each of  
16:53:01 15 those men, for Tapia and for Angelo Hill. To say it's  
16:53:12 16 unusual is an understatement.

16:53:15 17 It's my supposition that they were -- they executed  
16:53:25 18 their first plea bargains and divulged to the  
16:53:34 19 government, pursuant to those plea bargains, certain  
16:53:38 20 individuals, but they didn't discuss individuals, other  
16:53:48 21 individuals that the government wanted them to discuss.  
16:53:55 22 And so basically they were given an ultimatum: Either  
16:54:05 23 you give up some other people or you can forget getting  
16:54:09 24 any lenient treatment at sentencing pursuant to the plea  
16:54:14 25 agreements.

16:54:15 1 Because these plea agreements, you see, the whole  
16:54:19 2 concept of the plea agreements is, as a defendant, I'm  
16:54:22 3 going to cooperate to the fullest of my ability, tell  
16:54:26 4 you all the truth, tell you every crime I've ever been  
16:54:29 5 involved with or involved in, and every person of a  
16:54:36 6 criminal nature who I've ever been involved in or with.

16:54:41 7 So it would seem to me that both men -- Mr. Angelo  
16:54:51 8 Hill calls them proffers. That's, what he meant was  
16:54:56 9 what he was offering to the government.

16:55:00 10 I maintain that what he was offering to the  
16:55:03 11 government was insufficient for what, was insufficient  
16:55:11 12 for what they wanted, so they coerced him, in essence,  
16:55:18 13 into basically coming up with anybody else in a sense,  
16:55:25 14 in order to comply -- strike that -- in order to achieve  
16:55:33 15 their goals.

16:55:37 16 And that's why you got two plea bargains, because  
16:55:43 17 the second plea bargain reflects the fact that by some  
16:55:48 18 means I, I dare not call it coercion, but let's say  
16:55:56 19 not-so-friendly persuasion that they should, Tapia and  
16:56:01 20 Hill, should give up more people.

16:56:05 21 So in a desperate -- these are desperate, desperate  
16:56:10 22 men, desperate because they know the penalties involved  
16:56:14 23 with their crimes.

16:56:20 24 So they decide, okay, and they start giving up a  
16:56:22 25 litany -- Hill said he had given up somewhere around

16:56:28 1 four or five individuals, just as an example. There  
16:56:50 2 were that day on May 17th, the date of this alleged  
16:56:57 3 transaction involving my client, there have been a  
16:57:07 4 discussion of fingerprints.

16:57:08 5 My client's fingerprints aren't found on anything.  
16:57:12 6 There -- there are no fingerprints. They have never  
16:57:19 7 found any drugs on my client. They've never found my  
16:57:26 8 client with, at least that they've mentioned, with a  
16:57:32 9 staggeringly huge bank account. He lives very modestly,  
16:57:39 10 unlike the \$2-1/2 million home that Sergeant Hill has  
16:57:45 11 constructed in St. John.

16:57:53 12 The only two people -- there were somewhere around  
16:58:00 13 eight or nine agents from different agencies -- well,  
16:58:06 14 we'll get to that in a second. That's regarding the  
16:58:11 15 tape. Let's discuss this alleged exchange first. I'm  
16:58:15 16 sorry. I don't want to confuse you.

16:58:21 17 Angelo Hill says: I couldn't see anything because  
16:58:28 18 it was dark.

16:58:31 19 He saw cars, but he said: I couldn't see anything  
16:58:35 20 or anyone because it was too dark.

16:58:45 21 So how does he know that my client was even in the  
16:58:53 22 vicinity?

16:58:53 23 He doesn't. Because it was too dark, and by his  
16:58:57 24 own admission he couldn't see anything.

16:59:05 25 He then leaves the scene of this alleged exchange.

16:59:12 1 So he cannot testify -- he leaves the scene in his car,  
16:59:21 2 and he goes driving about somewhere. So he never saw  
16:59:23 3 anything. He didn't see my client.

16:59:29 4 There's a discrepancy as to whether or not this  
16:59:34 5 exchange of money and drugs took place in a Ford  
16:59:46 6 Explorer, which if you know cars is a very kind of big  
16:59:49 7 SUV, or a Suzuki, which is a very, very small SUV.

16:59:56 8 So he can't, he can't even, there's a discrepancy  
17:00:02 9 as to the type of vehicle that was purportedly used.

17:00:45 10 Here's another interesting aspect of this case. As  
17:00:54 11 you know, there were eight or nine other men arrested  
17:01:05 12 pursuant to this, to this case that the government  
17:01:09 13 brought against Mr., originally against Mr. Tapia.

17:01:17 14 Those men were all arrested within, more or less, a  
17:01:23 15 month or so of the May 17th transaction. The  
17:01:31 16 transaction takes place in May. By June, all those guys  
17:01:38 17 had been arrested.

17:01:39 18 My client doesn't get arrested until the end of  
17:01:46 19 November, seven months -- yeah, eight -- seven or  
17:01:53 20 eight months later.

17:01:56 21 If they had such a strong case against my client  
17:02:00 22 that he's the kingpin or the ring leader or so on and so  
17:02:05 23 forth, then why is it that it takes them another  
17:02:12 24 seven months before they get around to arresting him?

17:02:27 25 If they, if the government had had such a strong

17:02:31 1 case as they would purport, then why wasn't he arrested  
17:02:40 2 sooner, rather than seven months, more or less, later?

17:02:59 3 Mr. Tapia, Sergeant Tapia, former Assistant Police  
17:03:09 4 Commissioner Tapia, he says that he, he didn't say  
17:03:21 5 anything about my client because he feared for his life.

17:03:31 6 Well, number one, he's not a civilian. I mean, I'm  
17:03:35 7 a civilian, and if I thought somebody was going to try  
17:03:40 8 and hurt me or shoot me, I certainly, I would want  
17:03:46 9 protective custody. I would want, you know, some -- I  
17:03:52 10 would want to be -- let's put it this way: I surely  
17:03:55 11 would not want to keep a high profile where I could get  
17:04:01 12 shot at any given moment.

17:04:05 13 But here we have, here we have Tapia saying that he  
17:04:13 14 was free to come and go. And in point of fact, because  
17:04:21 15 he has a family, he needs to make money. So he takes a  
17:04:25 16 job working at his mother's food shop, food -- it's a  
17:04:31 17 food bar. And he did this for months, out in the open,  
17:04:40 18 walking the streets in order to make, I think he said  
17:04:45 19 something like \$200 a week.

17:04:48 20 Now, I don't know about you, but if I feared for my  
17:04:54 21 life and I thought that some big drug kingpin was going  
17:05:02 22 to have me assassinated or murdered, I surely would not  
17:05:07 23 be walking the streets on a daily basis, going to one  
17:05:14 24 spot, particularly one spot, this food bar, every day,  
17:05:20 25 or I think he said 5 days a week, because how easy would

17:05:24 1 it be to get killed?

17:05:27 2 I mean, the killer would just say, okay, he goes

17:05:29 3 every day, he goes to this particular spot, so he'll be

17:05:34 4 easy for me, too easy for me to wham. That's my lingo.

17:05:42 5 But he would be easy for me to kill.

17:05:44 6 But instead Mr. Tapia, you know, carries on, he

17:05:50 7 asks the Court if he can go back to work. They say,

17:05:54 8 sure, go ahead.

17:05:57 9 So his credibility regarding the comment that he

17:06:05 10 feared for his life seems a little bit weak, to put it

17:06:11 11 mildly, because that's not, if your -- if you think

17:06:14 12 about it logically -- and I know you will -- that's not

17:06:17 13 how most people who are in fear of their life are going

17:06:21 14 to behave.

17:06:22 15 I would personally hole up somewhere, or I would

17:06:27 16 ask for protective custody or something to protect

17:06:30 17 myself. I certainly wouldn't expose myself every day

17:06:34 18 for months on end in a predictable pattern.

17:06:54 19 Mr. Tapia basically, to put it in a colloquial

17:06:57 20 parlance, his credibility is tinged. He, there are, he

17:07:12 21 admits that he knows my client. But they're both in

17:07:20 22 essence boat captains, and boat captains have a tendency

17:07:26 23 to know one another. They interacted all the time,

17:07:30 24 particularly when they're at their age. I mean, it's

17:07:32 25 not like they're doing boating for few, you know, couple

17:07:38 1 years.

17:07:55 2 He, he says that, you know, we only have his word,  
17:08:03 3 which I think we have to view in a jaundiced way, in a  
17:08:09 4 cynical way -- let me rephrase that. We only have his  
17:08:15 5 word that there were transactions taking place involving  
17:08:21 6 my client hitherto in Puerto Rico.

17:08:29 7 My, my client travels to Puerto Rico to have his  
17:08:40 8 boat for Caneel Bay repaired, because the Caterpillar  
17:08:52 9 engine --

17:08:52 10 MS. LAKE: Objection.

17:08:53 11 THE COURT: Overruled.

17:08:55 12 MR. MINGOLLA: The Caterpillar company, they're  
17:08:59 13 in Puerto Rico and they make the engines for the  
17:09:01 14 boats --

17:09:02 15 THE COURT: Let's move on.

17:09:03 16 MR. MINGOLLA: -- in Puerto Rico so he has to  
17:09:07 17 go to Puerto Rico --

17:09:07 18 THE COURT: All right. No, stick to the  
17:09:11 19 evidence. Move on.

17:09:32 20 MR. MINGOLLA: Now, you saw -- well, let's talk  
17:09:37 21 about, talk about Angelo Hill for a moment.

17:09:40 22 Okay. As I pointed out, Angelo Hill also executes  
17:09:45 23 two plea agreements. He executes those on the same day  
17:09:53 24 in December.

17:10:05 25 One must assume that something was missing -- or

17:10:09 1 strike that. One must assume that he wasn't doing  
17:10:18 2 enough, according to, you know, doing enough to merit  
17:10:22 3 favorable treatment under the first plea bargain.

17:10:28 4 And when he was -- which he signed and his lawyers  
17:10:31 5 signed and the AUSA signed. But they must have  
17:10:46 6 ascertained some way or another that he wasn't giving  
17:10:50 7 out enough, that he wasn't giving out enough names. He  
17:10:53 8 had only given out four or five names.

17:10:58 9 So again, bearing in mind the ferociously fierce  
17:11:08 10 sentence that he was facing, well, he starts spouting  
17:11:14 11 off names like crazy because he's desperate for the  
17:11:20 12 government to take that into consideration at sentencing  
17:11:27 13 time.

17:11:28 14 Again, I emphasize, Tapia and Angelo Hill, these  
17:11:37 15 guys are desperate dudes. They are desperate and they  
17:11:42 16 will say and they will do anything in order to avoid  
17:11:52 17 their potential jail sentences.

17:12:05 18 Now, regarding, regarding these phone calls, there  
17:12:23 19 seems to be some controversy. Agent Fernandez said I  
17:12:26 20 think there were 17,000. I thought there were 19. But  
17:12:30 21 I'll give him the benefit of the doubt. He said there  
17:12:32 22 were 17,000 phone taps. And out of the 17,000 phone  
17:12:46 23 taps, my client is only on five of them.

17:12:48 24 Well, let me go back. Out of the 17,000 phone  
17:12:52 25 taps, only about 1,800 are relevant. And of those 1,800

17:12:57 1 my client is only on five.

17:13:01 2 And what he says as you hear the phone  
17:13:06 3 conversations, they're innocuous conversations. And  
17:13:12 4 when I say "innocuous," there's no discussion of drugs,  
17:13:18 5 of, you know, money, of anything in those phone  
17:13:24 6 conversations, now, either in any kind of code or in the  
17:13:36 7 open, if you will, in open language.

17:13:45 8 Now, let's go to this, let's go to this videotape.

17:13:54 9 Agent Querrard instructs, according to Mr. Hill.

17:14:01 10 Agent Querrard instructs him to set up a meeting with my  
17:14:05 11 client. Okay.

17:14:12 12 Mr. Angelo Hill, he agrees with that, and he is so  
17:14:23 13 anxious to get this meeting going, he's so anxious to  
17:14:34 14 get this meeting going that in the span of the  
17:14:38 15 approximately, by his testimony, 18 minutes it took  
17:14:43 16 Mr. Hill, Walter Hill to get there to the site, he makes  
17:14:50 17 innumerable phone calls. If you work it out, it comes  
17:14:53 18 to like one every four minutes to Mr. Hill, to say,  
17:14:56 19 where are you, where are you, you know, when are you  
17:14:58 20 going to get here, when are you going to get here.

17:15:01 21 People don't do that, I mean, unless they're under  
17:15:05 22 tremendous pressure. You don't call somebody every  
17:15:08 23 four minutes to say, where are you, unless you have  
17:15:16 24 Agent Querrard standing over your shoulder saying, call  
17:15:21 25 him up again.

17:15:33 1 Angelo Hill admits that he would always go to my  
17:15:37 2 clients for loans which didn't get paid back, for  
17:15:50 3 advice, at that time he met with him frequently. And  
17:15:52 4 that tape indicates that Angelo Hill was more interested  
17:16:05 5 in what Mr. Walter Hill was hearing on the street about  
17:16:16 6 the case, than vice versa.

17:16:27 7 He, again, if you listen to that tape carefully,  
17:16:31 8 you'll see that Mr., Mr. Angelo Hill kept prompting,  
17:16:37 9 because he had been coached, kept prompting my client to  
17:16:46 10 try to get him into admitting certain things, certain  
17:16:54 11 things, to self-incriminating things, were the certain  
17:16:58 12 things.

17:16:59 13 As far as, you've never been shown any evidence of  
17:17:08 14 my client with drugs. You haven't heard of any  
17:17:12 15 fingerprints, of his fingerprints on any drug packages.  
17:17:17 16 Tapia could have met with anybody that night, either  
17:17:20 17 someone in a blue Explorer or a Suzuki SUV. We don't  
17:17:25 18 know what. He could have met with anyone that night,  
17:17:29 19 because no one except Tapia says that it's, it's, it  
17:17:35 20 was, it was, you know, that he made an exchange with  
17:17:42 21 Mr. Hill.

17:17:50 22 And lastly, I would point out that if the  
17:17:55 23 government knew that -- or suspected that police officer  
17:18:02 24 Hill was going to go to St. John to make an exchange,  
17:18:10 25 why didn't they go and follow and go and arrest Mr. --

17:18:15 1 my client at the same time?

17:18:16 2 You know, why didn't they arrest them both when  
17:18:22 3 they were making the exchange?

17:18:24 4 Instead they wait until there, until the, until  
17:18:33 5 Tapia gets back over to St. Thomas. And if you're  
17:18:42 6 anything like me, admittedly my hearing isn't the  
17:18:46 7 greatest in the world, but you had to have had problems  
17:18:52 8 discerning when you're listening to that, to that tape,  
17:18:58 9 you had to have problems discerning who is talking. I  
17:19:06 10 did. You can't --

17:19:07 11 I'm sorry, Judge I shouldn't have said that.

17:19:10 12 But you had to have problems trying to figure out  
17:19:13 13 who is saying what about what, because the voices are  
17:19:20 14 very similar. So I would ask you, as far as possession,  
17:19:34 15 my client was not found with any drugs.

17:19:40 16 As far as conspirator, the only conspirators,  
17:19:45 17 alleged coconspirators, not alleged, the only  
17:19:48 18 coconspirators are Tapia and Hill, who would say  
17:19:52 19 anything to save their skin.

17:20:04 20 As far as the use of a phone, we've already  
17:20:06 21 discussed that. You know, there's five calls out of  
17:20:14 22 18,000.

17:20:19 23 I would ask you, when you go into deliberations, to  
17:20:22 24 please use your common sense and say to yourself: Wait  
17:20:28 25 a minute, who is it that's testifying against my client?

17:20:39 1 Crooked cops, and crooked cops that have been crooked  
17:20:44 2 cops for decades, by their own admission.

17:20:47 3 You know, who is accusing him? Just crooked cops,  
17:20:51 4 two of them, no one else. There is not one other person  
17:21:00 5 accusing my client of being involved in anything. No  
17:21:03 6 one says they know him. No one. The government didn't  
17:21:05 7 bring forth any other of their other witnesses to say  
17:21:09 8 that they know Mr. Hill, just Tapia and Angelo Hill.

17:21:19 9 So I would hope that you will take these things  
17:21:24 10 into consideration in your deliberations. I don't hope,  
17:21:27 11 I know you will, because you're a conscientious group of  
17:21:31 12 individuals who have indeed been paying attention to  
17:21:34 13 what's going on, and the testimony that you've heard.

17:21:39 14 And the government can, as shrilly as possible,  
17:21:47 15 saying, he's guilty, he's guilty, he's guilty. Just  
17:21:52 16 because the government shouts at you that an individual  
17:21:55 17 is guilty, doesn't make it so. I mean, I could shout at  
17:22:00 18 you and say he's innocent.

17:22:03 19 But I'm not. He's innocent and I'm saying it in a  
17:22:08 20 normal tone. And moreover, I believe that you will find  
17:22:14 21 that he is, he is innocent beyond any reasonable doubt,  
17:22:21 22 and that you will acquit Mr. Walter Hill.

17:22:26 23 Thank you for your time. I appreciate it very  
17:22:28 24 much.

17:22:29 25 THE COURT: Thank you, Attorney Mingolla.

17:22:31 1 Attorney Lake.

17:22:37 2 MS. LAKE: Thank you, Your Honor.

17:22:37 3 REBUTTAL ARGUMENT BY THE GOVERNMENT (Re Hill)

17:22:38 4 MS. LAKE: Ladies and gentlemen, I will try not  
17:22:39 5 to repeat anything I've already said, but there are just  
17:22:42 6 a few comments I thought were important to make.

17:22:48 7 Attorney Mingolla, attorney for Walter Hill, made a  
17:22:52 8 lot of comments, so let's just address those comments he  
17:22:56 9 made.

17:22:56 10 He indicated that you only heard from two witnesses  
17:23:03 11 regarding Walter Hill's guilt, Roberto Tapia and Angelo  
17:23:06 12 Hill.

17:23:06 13 That's not true. You heard from one other person.  
17:23:10 14 You heard from Walter Hill. He told you that he was  
17:23:15 15 guilty. He told you that he was a drug dealer.

17:23:21 16 And Attorney Mingolla mentioned in his closing  
17:23:24 17 arguments that the defendant isn't law enforcement.  
17:23:28 18 That is correct. The defendant is not in law  
17:23:31 19 enforcement. The defendant is a drug dealer. That's  
17:23:34 20 his job.

17:23:34 21 And you heard from his own statements, he supplied  
17:23:39 22 seven kilograms of cocaine because he is a drug dealer.

17:23:44 23 Now, you heard a lot of statements. You heard  
17:23:48 24 about runaway elephants and a cup. But focus on why  
17:23:52 25 you're here. You're here just to determine guilt.

17:23:56 1 That's it. You are the sole judges of the witnesses,  
17:24:00 2 the credibility of the evidence. You are the judges of  
17:24:03 3 the facts. That's why you're here, not about elephants,  
17:24:09 4 just the facts.

17:24:12 5 And the fact is that the defendant is guilty  
17:24:14 6 because he's a drug dealer and he's guilty of conspiring  
17:24:17 7 to distribute seven kilograms of cocaine, and that he  
17:24:20 8 did in fact distribute seven kilograms of cocaine.

17:24:24 9 Attorney Mingolla mentioned the testimony of Agent  
17:24:27 10 Grossman. Agent Grossman testified to the amount of  
17:24:33 11 phone calls that were made. And Agent Grossman  
17:24:36 12 testified that on May 17th, Walter Hill and Angelo Hill  
17:24:40 13 were in contact 12 times. It took 12 phone calls to  
17:24:49 14 complete a drug deal. That's what Agent Grossman  
17:24:51 15 testified to.

17:24:51 16 What else did you hear?

17:24:54 17 You -- Attorney Mingolla mentioned there are no  
17:24:56 18 fingerprints on the drugs. Well, you already knew that  
17:24:59 19 because Walter Hill told you that. You heard the tape.  
17:25:04 20 Listen to the tape recording. He said it himself: I  
17:25:09 21 handled one of those things, but I feel at ease because  
17:25:15 22 my man told me the way the packaging is, there's not  
17:25:18 23 going to be any prints on there. I felt a little ease.

17:25:21 24 You listen to that recording. Walter Hill told you  
17:25:24 25 that there will be none of his fingerprints on there.

17:25:27 1 That's how you know that.

17:25:29 2 What else do we know?

17:25:35 3 We know that Angelo Hill told you he couldn't see

17:25:37 4 anything that night. But how do you know if he was

17:25:40 5 there? How do we know that Walter Hill was there?

17:25:42 6 Because Walter told you. He told you. We were

17:25:47 7 supposed to be by inspection lane. Seven of those

17:25:52 8 things. Seven kilos. He said seven of three-quarter

17:25:58 9 kilos. That's how you know that.

17:26:03 10 There is no confusion regarding the car. It is

17:26:05 11 very clear. Roberto Tapia told you. Walter Hill was in

17:26:09 12 a Ford. Walter Hill told him the car next to this is a

17:26:14 13 Suzuki. That's where the drugs are. Get it, come back.

17:26:18 14 I will help you put them in the bag and you give me my

17:26:22 15 money.

17:26:23 16 And what else do we know?

17:26:25 17 After that drug deal, Walter Hill paid Angelo Hill

17:26:32 18 \$3,500, because he's a drug dealer. The witnesses you

17:26:39 19 heard from are drug dealers. When you're in the crime

17:26:42 20 of drugs, your colleagues are in the crime of drugs.

17:26:46 21 When your job is a drug dealer, you work with drug

17:26:48 22 dealers.

17:26:51 23 And what else did you hear?

17:26:53 24 You heard that the recording is confusing, that the

17:26:56 25 voices are similar. The voices are not similar. But

17:27:00 1 there is one dominant voice that you keep hearing over  
17:27:03 2 and over again, and you saw his face. It is  
17:27:10 3 Walter Hill. Walter Hill told you that he is guilty.  
17:27:15 4 And we are confident that at the conclusion of your  
17:27:19 5 deliberation, we are confident that you will also agree  
17:27:22 6 with Walter Hill and find him guilty. We are confident  
17:27:26 7 that you will believe Walter Hill's own statements to  
17:27:29 8 you that he is a drug dealer. He handles seven of  
17:27:34 9 those. He supplies seven kilograms of cocaine to  
17:27:39 10 Roberto Tapia. He paid Angelo Hill \$3,500.  
17:27:44 11 One last thing. Attorney Mingolla mentioned Angelo  
17:27:50 12 Hill borrowing money and not ever paying Walter Hill  
17:27:53 13 back. That's not true. You heard from Angelo Hill.  
17:28:01 14 Walter told him that, "We're good," because he connected  
17:28:03 15 him to Roberto Tapia and he and Roberto Tapia  
17:28:06 16 transported drugs on two separate occasions to Puerto  
17:28:10 17 Rico, and because of that Angelo didn't owe him any more  
17:28:15 18 money. They were good.  
17:28:16 19 So what do you know?  
17:28:17 20 You know that the defendant is guilty. You know  
17:28:19 21 that the defendant is a drug dealer. You know the  
17:28:22 22 defendant used a phone to commit those crimes. You know  
17:28:26 23 the defendant is guilty. And we are confident that at  
17:28:30 24 the conclusion of your deliberations, you will come back  
17:28:32 25 with a guilty verdict.

17:28:33 1 Thank you very much.

17:28:38 2 THE COURT: All right. Thank you, Attorney

17:28:38 3 Lake.

17:28:38 4 FURTHER JURY INSTRUCTIONS BY THE COURT (Re Hill)

17:28:40 5 THE COURT: The indictment charges that the

17:28:41 6 crimes charged occurred on or about certain dates.

17:28:45 7 The proof need not establish with certainty the

17:28:48 8 exact dates of the alleged offense. It is sufficient if

17:28:51 9 the evidence in the case establishes beyond a reasonable

17:28:52 10 doubt that the offense was committed on dates reasonably

17:28:56 11 near the date alleged.

17:28:57 12 During the course of this trial you've seen counsel

17:28:59 13 both for the government and for the defense make various

17:29:02 14 objections to questions asked and evidence offered. It

17:29:05 15 is not only the right, it is the duty of counsel for

17:29:08 16 either the government or for the defendant to object

17:29:10 17 when counsel believes evidence or testimony being

17:29:13 18 offered is not admissible under the Rules of Evidence.

17:29:16 19 Then I rule on the objection.

17:29:17 20 Do not be influenced in any way by my rulings,

17:29:22 21 whether in favor of or against the government or the

17:29:25 22 defendant.

17:29:25 23 As I've already told you, these rulings involve

17:29:28 24 questions of law only and may not be given any

17:29:31 25 considerations by you in your deliberations.

17:29:32 1 In performing my constitutional role to preside  
17:29:35 2 over this trial, I sometimes found it necessary to ask  
17:29:37 3 questions of witnesses to clarify testimony I thought  
17:29:39 4 was unclear.

17:29:40 5 If I've asked any questions to any of the witnesses  
17:29:43 6 during the course of this trial, or if I have said or  
17:29:45 7 done anything during the trial or in the course and  
17:29:48 8 manner of instructing you now, whereby it seems to you  
17:29:50 9 that I'm inclined to favor the case of the government or  
17:29:53 10 the case of any defendant, you must remove any such  
17:29:56 11 impression from your minds and not be influenced by it,  
17:29:58 12 as no such impression was intended.

17:30:01 13 You've seen the counsel consult with each other and  
17:30:04 14 sometimes among each other. Attorneys have an  
17:30:07 15 obligation to consult with each other if such  
17:30:09 16 consultation is in the best interest of the attorney's  
17:30:12 17 client.

17:30:12 18 Counsel also has a right and duty to ask me to make  
17:30:15 19 rulings of law and to make sidebar -- or to have sidebar  
17:30:19 20 discussions out of the hearing of the jury.

17:30:21 21 All those questions of law must be decided by me,  
17:30:24 22 the Court.

17:30:25 23 You should not show any prejudice against an  
17:30:28 24 attorney or the attorney's client because the attorney  
17:30:30 25 asked for a conference out of the hearing of the jury or

17:30:33 1 asked the Court for a ruling on the law.

17:30:34 2 All of these conferences deal with legal questions  
17:30:37 3 on which I've ruled, and do not concern your function as  
17:30:41 4 jurors. Do not speculate on such matters during your  
17:30:43 5 deliberations.

17:30:43 6 It is my duty to admonish an attorney who, out of  
17:30:48 7 zeal for the attorney's cause, does something that I  
17:30:50 8 feel is not in keeping with the Rules of Evidence or  
17:30:53 9 procedure.

17:30:54 10 You are to draw absolutely no inference against a  
17:30:57 11 side to whom an admonition of the Court may have been  
17:31:00 12 addressed during the trial of this case.

17:31:02 13 You've been chosen and sworn as jurors in this case  
17:31:05 14 to try the issues of fact presented by the defendant's  
17:31:07 15 pleas of not guilty to the charges in the indictment.  
17:31:09 16 You are to perform this duty without bias, sympathy or  
17:31:13 17 prejudice.

17:31:13 18 Under no circumstances then may your deliberations  
17:31:15 19 be affected or diverted by any appeals to bias, passion  
17:31:19 20 or prejudice, nor influenced by any pity or sympathy in  
17:31:22 21 favor of either side.

17:31:23 22 In every respect your judgment must be considered,  
17:31:26 23 deliberate and objective. It must derive its force and  
17:31:28 24 validity from the facts and inferences reasonably and  
17:31:31 25 logically supported by the testimony.

17:31:33 1 Both the government and the defendant expect that  
17:31:35 2 you will carefully and impartially consider all of the  
17:31:38 3 evidence, follow the law as stated by the Court and  
17:31:41 4 reach a just verdict regardless of the consequence. I  
17:31:44 5 need not impress upon you that it is your duty to give  
17:31:46 6 an absolutely fair and impartial verdict.

17:31:48 7 It was said that this is an important case. That  
17:31:51 8 is true. Every case that comes into this Court is  
17:31:54 9 important.

17:31:54 10 This case is of equal importance to the government  
17:31:57 11 and to the defendants. Each is entitled to your fairest  
17:32:00 12 consideration, your closest judgment and your impartial  
17:32:04 13 decision.

17:32:04 14 Jurors perform a very important function in  
17:32:07 15 deciding upon their verdict. You are an arm of this  
17:32:09 16 Court, here to do justice. That is sacred. Do your  
17:32:13 17 duty conscientiously, according to your oath and  
17:32:16 18 according to these instructions, and justice will be  
17:32:18 19 done.

17:32:18 20 You were accepted as jurors based on your answers  
17:32:22 21 when you were initially questioned about your  
17:32:25 22 qualifications.

23 The answers you then made to the questions with  
24 regard to your competency, qualifications, fairness,  
25 lack of bias and freedom from sympathy are as binding

1       upon you now as they were then, and shall remain so  
2       until you are finally discharged from further  
3       consideration of this case.

4                   Remember, at all times you are not partisans, you  
5                   are judges, judges of the facts. Your sole interest is  
6                   to search for and ascertain the truth from the evidence  
7                   in this case.

8 You'll recall earlier in these instructions I  
9 charged that under our system of criminal justice the  
0 Court and jury have distinct functions.

1                   What sentence or punishment, if any, a defendant  
2                   will receive if found guilty is entirely beyond the  
3                   province of the jury. In plain words, that is the  
4                   business of the Court.

0 You're further instructed that if any of you has  
1 developed any opinion in this case predicated in whole  
2 or in part from sources seen and heard outside of this  
3 Court, you are to put such opinion out of your mind.

4 I want to stress in the strongest possible terms  
5 that regardless of what counsel has said in recalling

17:33:35 1 the facts of this case, it is your recollection of the  
17:33:37 2 facts that should guide you in carrying out your  
17:33:39 3 function as judges of the facts.

17:33:41 4 If any of the attorneys stated a version of the  
17:33:44 5 facts that does not square with your own recollections,  
17:33:46 6 you are to disregard that version in favor of your own  
17:33:49 7 recollection.

17:33:49 8 In arriving at your verdict you are to consider all  
17:33:52 9 the evidence as you recall it, and you are to give that  
17:33:55 10 evidence the weight that you believe it is entitled to  
17:33:57 11 receive.

17:33:57 12 During the course of this trial you have no doubt  
17:34:00 13 received certain definite impressions on how much you  
17:34:04 14 think it should be decided.

17:34:05 15 Do not allow these impressions become so firmly  
17:34:08 16 fixed that they prevent you from fairly and frankly  
17:34:10 17 discussing this case with any of your fellow jurors who  
17:34:12 18 may have a different point of view.

17:34:14 19 It is your duty as jurors to give careful attention  
17:34:16 20 and consideration to the views of your fellow jurors, to  
17:34:18 21 consult with one another, and to deliberate with a view  
17:34:22 22 toward reaching an agreement, if you can do so without  
17:34:24 23 doing violence to your individual judgment.

17:34:27 24 Each of you must decide the case for yourself, but  
17:34:29 25 do so only after an impartial consideration of the

17:34:32 1 evidence with your fellow jurors.

17:34:35 2 In the course of your deliberations, do not  
17:34:36 3 hesitate to take a look at your own views and to change  
17:34:39 4 your opinion, if you become convinced it is wrong. But  
17:34:42 5 do not give up your honest conviction or belief about  
17:34:45 6 the weight or effect of the evidence solely because of  
17:34:48 7 the opinion of your fellow jurors or just so you can  
17:34:50 8 return a verdict.

17:34:51 9 When you retire to the jury room to deliberate,  
17:34:53 10 your first order of business is to elect a foreperson.  
17:34:56 11 The foreperson will preside over your deliberations here  
17:34:59 12 and will speak for you here in court. That person has  
17:35:02 13 no greater weight of opinion than anyone else.

17:35:05 14 If it becomes necessary to communicate with me  
17:35:09 15 during your deliberations, you may send a note by the  
17:35:13 16 court security officer or marshal. Never try to  
17:35:15 17 communicate with me by any means other than by a signed,  
17:35:19 18 sealed writing.

17:35:19 19 And bear in mind you are not to reveal to the Court  
17:35:22 20 or to any person how you stand, numerically or  
17:35:24 21 otherwise, until you have reached a unanimous verdict.

17:35:27 22 Now a word about your verdict. Your verdict must  
17:35:29 23 represent the considered judgment of each juror, and all  
17:35:32 24 jurors must agree on the verdict before you return a  
17:35:35 25 verdict. Your verdict must be unanimous.

17:35:38 1 To aid and assist you in the discharge of your  
17:35:41 2 obligation, there's been prepared with the consent of  
17:35:43 3 counsel a verdict form, which you are to answer  
17:35:45 4 unanimously, thereby facilitating your task and that of  
17:35:49 5 the Court in determining the proper verdict to be  
17:35:52 6 entered.

17:35:52 7 As I discussed before, you will be making a  
17:35:54 8 determination of guilty or not guilty on the crime with  
17:35:56 9 which the defendant is charged. As you'll see when I  
17:35:59 10 give you the verdict form, it has a space listed for the  
17:36:02 11 charge. Within this space you will note that there's a  
17:36:04 12 space provided for guilty or not guilty.

17:36:06 13 When you've made a unanimous determination of the  
17:36:09 14 guilt or innocence of the defendant with respect to a  
17:36:11 15 particular charge, you'll make an X mark in the  
17:36:14 16 appropriate space, indicating either guilty or not  
17:36:16 17 guilty.

17:36:16 18 You'll also see that following certain charges the  
17:36:19 19 verdict form has an additional question with a space for  
17:36:23 20 yes or no answers.

17:36:24 21 Answer these questions only if you find a defendant  
17:36:27 22 guilty for that particular charge. Follow the  
17:36:30 23 directions as appropriate for these yes or no questions.

17:36:33 24 Nothing that has been said in these instructions or  
17:36:36 25 in the form of verdict is to suggest or convey in any

17:36:38 1 way or manner what verdict I think you should find.

17:36:41 2 You'll take this form with you, and when you have

17:36:44 3 unanimously made a determination, the foreperson should

17:36:47 4 date it, sign it, and then pass it to each of you to

17:36:50 5 sign. Then it should be sealed.

17:36:53 6 Then you should advise the marshal you wish to be

17:36:55 7 returned to the courtroom. And upon your return to the

17:36:58 8 courtroom, the foreperson should bring the verdict form.

17:37:00 9 I'll then ask if you've reached a verdict, and if

17:37:03 10 so, will ask the foreperson to announce the jury's

17:37:06 11 verdict. Your foreperson will then respond by using the

17:37:10 12 completed verdict form supplied to you.

17:37:11 13 It's now time for you to begin your deliberations.

17:37:15 14 (CSO Graneau sworn.)

17:37:41 15 THE COURT: All right. Now, ladies and

17:37:43 16 gentlemen, a final word. As I indicated, you are the

17:37:48 17 panel that will be addressing the case against Walter

17:37:54 18 Hill. The counts that you will be focused on will be

17:37:57 19 Counts 37, 38 and 42. And the exhibits are 55 through

17:38:07 20 75 with respect to the phone calls.

17:38:09 21 And you will have those exhibits with you in the

17:38:13 22 deliberation room on the jury electronic system. You

17:38:19 23 will also have the jury instructions. You will have the

17:38:24 24 indictment and the verdict form. All right?

17:38:27 25 Now, one final note. In our system of justice,

17:38:31 1 while there are alternates who also take part in the  
17:38:36 2 jury panel during the course of the trial, for  
17:38:39 3 deliberation purposes only 12 jurors may deliberate.  
17:38:42 4 The alternates are not excused, though, in the event  
17:38:45 5 there's need for your service. But we do have to  
17:38:48 6 separate the alternates from the 12 initial jurors who  
17:38:51 7 were selected. All right. So it is time to begin  
17:38:55 8 deliberations.

17:38:56 9 (Jury out for deliberation.)

17:39:40 10 MS. LAKE: Your Honor, if I may, one thing.  
17:39:41 11 I'm just confused. The jurors also have Exhibits 80 and  
17:39:45 12 86.

17:39:48 13 THE COURT: Right, yes. I just said with  
17:39:50 14 respect to the phone calls, 55 through 75. So -- well,  
17:39:54 15 I'll check and see what was admitted. But I know 80  
17:39:57 16 that's the contraband and the photographs, they  
17:40:00 17 certainly were admitted.

17:40:02 18 MS. LAKE: 86 is the video.

17:40:05 19 THE COURT: Yes, yes. If it's admitted, it's  
17:40:07 20 going with them. I was just clarifying that phone calls  
17:40:10 21 they have will be 55 through 75.

17:40:13 22 MS. LAKE: Very good, Your Honor.

17:40:14 23 THE COURT: They were here for those other  
17:40:16 24 exhibits, so they're aware.

17:40:17 25 All right. This is the redacted indictment that's

17:40:19 1 going back. We'll go to the first page of substantive  
17:40:24 2 information. Any issues with that?

17:40:32 3 MS. LAKE: No, Your Honor.

17:40:32 4 THE COURT: Attorney Mingolla?

17:40:37 5 MR. MINGOLLA: Forgive me, Judge.

17:40:39 6 THE COURT: That's the redacted indictment

17:40:41 7 that's going back to the jury. Any issues with that

17:40:43 8 page? That's Count 37.

17:40:45 9 MR. MINGOLLA: Yes, Judge.

17:40:46 10 THE COURT: You have an issue? Or you have no.

17:40:50 11 MR. MINGOLLA: I'm sorry, I'm sorry. Forgive

17:40:52 12 me. I object to it going back to the jury, yes.

17:40:55 13 THE COURT: Oh, you object to the indictment

17:40:58 14 going back to the jury?

17:40:59 15 MR. MINGOLLA: Yes.

17:40:59 16 THE COURT: Some form of the indictment will be

17:41:02 17 going back to the jury. So that's been redacted. Do

17:41:05 18 you object to that redaction?

17:41:07 19 I know you object generally to the indictment going

17:41:12 20 back, but your objection is noted. But the indictment

17:41:15 21 will be going back in a redacted form. Do you object to

17:41:18 22 this form going back? This is without prejudice to your

17:41:22 23 objection.

17:41:26 24 MR. MINGOLLA: And this form is from the

17:41:27 25 indictment?

17:41:28 1 THE COURT: This is in the indictment. What's  
17:41:29 2 removed are references -- statutory references and names  
17:41:32 3 of others who are not being considered by this jury.  
17:41:42 4 MR. MINGOLLA: I still would object, Your  
17:41:44 5 Honor.  
17:41:44 6 THE COURT: All right. Turn to the next page.  
17:41:51 7 Any objection from the government?  
17:41:52 8 MS. LAKE: No, Your Honor.  
17:41:59 9 THE COURT: And I know you generally object,  
17:42:01 10 Attorney Mingolla. Any -- any input you wish to offer  
17:42:04 11 with respect to the redacted version that's going back?  
17:42:10 12 MR. MINGOLLA: No, no, Your Honor.  
17:42:18 13 THE COURT: And then the final Count 42.  
17:42:21 14 MS. LAKE: No objection, Your Honor.  
17:42:23 15 THE COURT: Attorney Mingolla?  
17:42:24 16 MR. MINGOLLA: I don't believe that that's in  
17:42:26 17 evidence, Judge. We never -- 54, I don't believe, was  
17:42:32 18 ever admitted into evidence.  
17:42:35 19 THE COURT: That's the indictment, not an  
17:42:37 20 exhibit. That's Count 42.  
17:42:42 21 MR. MINGOLLA: Strike that.  
17:43:12 22 So yes, I will object to that as well, Judge.  
17:43:14 23 THE COURT: All right. Here is the final page.  
17:43:18 24 MS. LAKE: No objection, Judge.  
17:43:25 25 THE COURT: Attorney Mingolla, any objection?

17:43:28 1 That's the final page.

17:43:30 2 MR. MINGOLLA: This call, to the best of my  
17:43:32 3 knowledge, is not in evidence.

17:43:36 4 THE COURT: Okay. All right. I note your  
17:43:41 5 input. All right. That's the indictment that will be  
17:43:46 6 sent back to the jury when they deliberate.

17:43:49 7 All right. We have counsel here for Mr. Brown, is  
17:43:57 8 that right? Attorney Watlington, you're here with your  
17:43:59 9 client?

17:43:59 10 MR. WATLINGTON: Yes, sir, Your Honor.

17:44:01 11 THE COURT: All right. The jury is  
17:44:02 12 deliberating. They'll be in Courtroom 3. And the B  
17:44:06 13 panel will be in Courtroom B -- or deliberation room for  
17:44:11 14 Courtroom B -- no, the B panel will be in Courtroom 1,  
17:44:15 15 and deliberation for Courtroom 1, that's this courtroom.

17:44:18 16 The seven-minute rule is in effect. So make sure  
17:44:21 17 Ms. Brann has your contact information. You need to be  
17:44:26 18 in -- be, one, reachable by Ms. Brann at all times, and  
17:44:32 19 two, to the extent she reaches you, you need to be in  
17:44:34 20 the courtroom within seven minutes of her call.

17:44:40 21 So any questions? Attorney Lake?

17:44:42 22 MS. LAKE: No.

17:44:43 23 THE COURT: Anything we need to cover, Attorney  
17:44:46 24 Mingolla?

17:44:46 25 MR. MINGOLLA: No, Your Honor.

17:44:47 1 THE COURT: Attorney Watlington?

17:44:49 2 MR. WATLINGTON: Yes, Your Honor. Is the gate

17:44:53 3 going to be locked? That's number one.

17:44:56 4 And number two, how long or how late is the Court

17:45:00 5 anticipating we'll be here tonight, if in fact we don't

17:45:03 6 have a verdict, let's say, within the next two hours?

17:45:05 7 THE COURT: I don't think we'll be here very

17:45:07 8 late tonight. We will not be here late tonight.

17:45:11 9 Usually we peg these things with the jury. If the jury

17:45:15 10 wants to work a little bit longer, then they'll work a

17:45:18 11 little bit longer. Once they let us know they're ready

17:45:24 12 to go, then we go.

17:45:26 13 So in any event, this will not be a late night.

17:45:30 14 You said two hours; assuredly not that long, not that

17:45:34 15 long.

17:45:34 16 And with access to the courthouse, I'm sure the

17:45:36 17 U.S. marshals will let you know about that. This

17:45:39 18 happens from time to time. So I think they will let you

17:45:45 19 know what the normal course is. But access is never

17:45:49 20 denied.

17:45:50 21 MR. WATLINGTON: I just ask Ms. Brann if she

17:45:53 22 has my number.

17:45:55 23 THE COURT: You can deal with that.

17:45:57 24 MR. WATLINGTON: All right.

17:45:57 25 THE COURT: All right. Thank you, counsel.

17:45:59 1 (Court in recess, 5:45 p.m.)

18:10:27 2 (After recess, 6:10 p.m., Jury present.)

18:10:27 3 THE COURT: All right. Good evening, ladies

18:10:28 4 and gentlemen.

18:10:28 5 I know you've been working hard, and I know there's

18:10:32 6 been a technical glitch. I don't know if it has been

18:10:36 7 resolved -- it hasn't been resolved.

18:10:38 8 All right. We'll make sure it is resolved before

18:10:41 9 you resume tomorrow. Assuredly it will be resolved.

18:10:47 10 I understand you're also ready to get a little

18:10:53 11 energy and refresh for tomorrow. So what we'll do is

18:10:56 12 allow you to go home tonight and we will resume tomorrow

18:11:00 13 morning. You should be here at 8:45 a.m., so you can

18:11:03 14 come down right to this courtroom. You'll be directed

18:11:05 15 where you need to go to, and then begin your

18:11:08 16 deliberations. At 8:45 you should all be here so you

18:11:11 17 can put in your lunch order, so you can make sure you're

18:11:14 18 fed for the day. And everything will be working, I

18:11:19 19 assure you by then. I apologize for any inconvenience.

18:11:22 20 Let me give some instructions before you leave for

18:11:25 21 the evening.

18:11:25 22 First of all, do not make any investigation, make

18:11:32 23 any sort of inquiries about the matters you heard in

18:11:35 24 this case. It's important that you not do so especially

18:11:38 25 at this stage. You have all the evidence. You have the

18:11:40 1 law. You're in the stage of deliberation.

18:11:41 2 It is very important that what you do concerning

18:11:44 3 this case occurs in that deliberation room with the

18:11:48 4 evidence and with your knowledge of the law, not what

18:11:50 5 you may hear or discuss outside of this courtroom.

18:11:55 6 There might be invitations to discuss this case,

18:11:59 7 inquiries. There might be an urge on your part. You

18:12:05 8 need to resist that urge, that temptation and

18:12:07 9 inclination.

18:12:08 10 Keep an open mind. Deliberation has not yet

18:12:12 11 concluded, obviously.

18:12:13 12 You need to consider the evidence. If anyone

18:12:17 13 attempts to discuss this case with you, bring it to the

18:12:20 14 Court's attention very promptly. We take very seriously

18:12:25 15 here, you're only to discuss the case here in the

18:12:27 16 deliberation room.

18:12:27 17 With that, let me wish you a pleasant evening. I

18:12:30 18 will see you tomorrow morning. Actually, you don't need

18:12:33 19 to see me before you start your deliberation. Just head

18:12:36 20 right to the deliberation room.

18:13:07 21 (Jury not present)

18:13:08 22 THE COURT: All right. Counsel. Let's make

18:13:11 23 sure that you're here at 8:45. The seven-minute rule

18:13:18 24 will go into effect at 8:45 a.m. tomorrow and we'll let

18:13:23 25 you know when lunch is. We generally suspend the rule

18:13:26 1 for lunch for 45 minutes.

18:13:29 2 All right. Anything we need to cover before we

18:13:31 3 adjourn for the evening?

18:13:33 4 Attorney Lake?

18:13:33 5 MS. LAKE: No, Your Honor.

18:13:34 6 THE COURT: Attorney Watlington?

18:13:36 7 MR. WATLINGTON: Yes, Judge. You're saying we

18:13:39 8 should report here at 8:45, or you just want to make

18:13:42 9 sure we're seven minutes at 8:45?

18:13:49 10 THE COURT: The seven-minute rule is in effect

18:13:52 11 at 8:45. So make sure Mrs. Brann has your information,

18:13:55 12 if she doesn't have it, and you're incommunicado. But

18:13:58 13 she has to reach you with whatever you provide for her.

18:14:01 14 If she can't reach you, it's not her responsibility.

18:14:04 15 It's your responsibility. So just make sure you're

18:14:06 16 accessible. It's the seven-minute rule and that's

18:14:09 17 designed so we don't keep the jury waiting. By the time

18:14:13 18 we get the note and get you here, they've been waiting a

18:14:16 19 while for an answer.

18:14:17 20 All right. Anything else, Attorney Watlington?

18:14:21 21 MR. WATLINGTON: No, Your Honor.

18:14:37 22 THE COURT: All right. Very good. Have a good

18:14:40 23 evening, Counsel.

18:46:29 24 (Court in recess, 6:14 p.m.)

18:46:29 25 (After recess, 6:46 p.m., jury present.)

18:46:29 1 THE COURT: Good evening, ladies and gentlemen.

18:46:29 2 I know you've been working hard and I know it's time to

18:46:29 3 get some energy and fuel, so I'm going to send you home

18:46:29 4 for the evening, and remind you that we will start

18:46:29 5 tomorrow at 8:45. So be here at 8:45 so you could put

18:46:29 6 in your lunch order.

18:46:29 7 You don't need to come to Court. You go straight

18:46:29 8 to the deliberation room. Put in your lunch order and

18:46:29 9 start deliberating.

18:46:29 10 With that, let me give you some instructions.

18:46:29 11 You have a lot of information now. You have all

18:46:29 12 the evidence in the case. You have the arguments. You

18:46:29 13 have my instructions on the law.

18:46:29 14 Do not discuss the case with anyone. The time to

18:46:29 15 discuss the case is when you're here in the deliberation

18:46:29 16 room.

18:46:29 17 Do not do any investigation, make any inquiries on

18:46:29 18 your own. You are not to consider items outside. Don't

18:46:29 19 Google something. Don't search for anything. Don't do

18:46:29 20 any independent investigation. Consider only what came

18:46:29 21 in through the witness stand and what was admitted into

18:46:29 22 evidence. Keep an open mind until you get into your

18:46:29 23 deliberations and conclude your deliberations.

18:46:29 24 You needn't fix on one thing, but just keep an open

18:46:29 25 mind.

18:46:29 1 And I think with that I'll wish you a pleasant  
18:46:29 2 evening, and I'll see you in the morning. I don't need  
18:46:29 3 to see you, but when we do meet we'll meet in the  
18:46:29 4 morning.

18:46:29 5 (Jury out)

18:46:39 6 THE COURT: All right. Counsel, the  
18:46:42 7 seven-minute rule will go into effect at 8:45 a.m.  
18:46:44 8 tomorrow morning.

18:46:45 9 We usually suspend it for lunch for 45 minutes.  
18:46:48 10 We'll let you know when that is. Make sure Mrs. Brann  
18:46:52 11 has all your contact information. If she can't reach  
18:46:55 12 you because you're inaccessible, that's on you, not on  
18:46:58 13 her. So make sure you give her contacts that work. If  
18:47:01 14 they don't work, you're not accessible, then you need to  
18:47:05 15 be here. But she'll give you 7 minutes lead time.

18:47:07 16 All right. Thank you, Counsel. Have a pleasant  
18:47:09 17 evening.

18 (Court in recess, 6:47 p.m.)

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## CERTIFICATE

This document is hereby certified  
to be a true and accurate transcript  
of the foregoing proceedings.

/s \_\_\_\_\_ September 10, 2014  
Chandra Kean, RMR  
Official Court Reporter DATE